




RECOMMENDATIONS ON AMENDMENTS TO DRAFT DIRECTIVE ON COMBATING TERRORISM (excl. COMPROMISE AMENDMENTS)


- 20.06.2016 -


In view of the amendments ([56-246](#), [247-438](#)) tabled to the draft report on the Directive on Combating Terrorism European Digital Rights (EDRI), Access Now and Digitale Gesellschaft, would like to comment on the proposed amendments that fall within our scope of work.

The left column repeats the draft report; the right column contains the amendments proposed by the members of the Civil Liberties Committee (LIBE).

For ease of reading, the headings are highlighted and marked with colours and symbols as follows:

 **green** (++) for amendments we welcome;

 **yellow** (+) for amendments which pursue good aims, but could benefit from further suggested improvements;

 **red** (-) for amendments which in our view should be reconsidered;

We indicated amendments not falling within our scope of work. A short justification is given below each amendment, when relevant.

SUMMARY

(You can find our DETAILED ANALYSIS on page 6.)

EDRi Support for Amendments

	Amendments			
	Supported	Opposed	Mixed Position	No position
Citation				
4a (new)				56
4b (new)				57
8a (new)				58
Recital				
1				59
2				60
2a (new)		61		
3a (new)				62, 63, 64
3b (new)				65, 66
4				67-71
4a (new)	74, 76	72, 78	75	73, 77
4b (new)	79			
4c (new)		80		81
5	82, 83, 84, 86	85		
5a (new)	89	88		87
5b (new)		90		
5c (new)		91		
5d (new)		92		
6				93
6a (new)	95, 97			94, 96
6b (new)	98			
7	99, 100, 102, 103	101		
7a (new)	105	104		
8				106-111
8a (new)				112, 113
9	114			115
9a (new)		116		
10				117-122
10a (new)		124, 125		123, 126, 127
10b (new)				128
11				129, 130
11a (new)				131, 132
11b (new)		133		
12				134-137
13	138, 140, 141,	139		

	142			
13a (new)	143			
14				144
14a (new)			145	
15				146, 147
15a (new)	151, 152	154	150, 155	148, 149, 153
15b (new)		158	156, 157, 159	
15c (new)	160	162		161
16				163-166
16a (new)				167
16b (new)			168	
16c (new) – 16h (new)				169-174
17				175
17a (new)	177, 179, 180		176, 178, 182	181
17b (new)				183
18				184, 185
18a (new)				186
19	187, 190	189, 191	188, 192	
19a (new)	193, 194			195
20	196-199			
20a (new)	200			
21	201			
21a (new)				202
23a (new)	203			
23b (new)	204			
Article				
1 para 1				205
1a (new)	206			
2 para 1a				207
2 para 1c				208, 209
2 para 1d				210, 211, 212
2 para 1d a (new)				213
2 para 1d b (new)				214
2 para 1				215
3 para 1a				216
3 para 1b	217-222			
3 para 1c				223, 224
3 para 2a				225
3 para 2b				226, 227
3 para 2d		228	229	
3 para 2f				230, 231


3 para 2g				232
3 para 2h		233		
3 para 2h a (new)		234		
3 para 2i	235, 237, 238		236	
3 para 2i a (new)		239		
3 para 2a (new)	240			
4 para 1b				241-244
4 para 1a (new)	245		246	
4a (new)	247			
5 para 1	249, 256	250, 252-255, 257	248, 251	
5 para 1a (new)	258			
5a (new)	259	260		
5b (new)				261
6 para 1	262	263, 264, 265		
6 para 1a (new)				266
7 para 1	267	268		
8 (title)		269		
8 para 1	273	270, 274, 275, 276	271, 272	
8 para 1a (new)	277			
9				278, 279, 280
9 para 1				281-285
9 para 1a (new)	287	286		288
10				289-292
11				293-301
12				302, 303, 304
13				305, 306, 307
14 (title)				308, 309
14 para 1				310-314
14a (new)	318	315, 316, 317		
15 para 1	320		321, 322, 323	319, 324
16 para 1	327	325, 326		
16 para 2	328	329, 330, 331		
16 para 3			332, 333	334
16 para 3 a (new)	335			336
17 para 1				337
17 para 3a (new)				338
17a (new)	339			
18				340-345
19				346, 347, 348
20				349, 350, 351

21 para 1				352-355
21 para 2				356
21 para 5a (new)			358	357, 359
21a (new)	360, 365, 367		361, 363	362, 364, 366
21b (new)	369		368	
21c (new)				370, 371
21d (new)		372	373	
21e (new)				374, 375
22				376-397
23 para 1				298, 399
23 para 2				400-403
23a (new)	404, 405, 406, 408, 409, 410	407		
23b (new)	411-414, 416		415	
23c (new)	417, 418			
23d (new)	419, 420			
23e (new)	421			
25 (title)	422, 423			
25 para 2	424			
25 para 2a (new)	425, 426			
26 para 1	428, 429		427	
26 para 2	431, 433		430, 432, 434	
26 para 2a (new)	435, 436, 437			
26a (new)	438			

DETAILED ANALYSIS

Amendments 56-60: **NO POSITION**

Comment: These AMs fall outside our scope of work.

-  **Amendment 61**
Maite Pagazaurtundúa Ruiz
Proposal for a directive
Recital 2 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(2a) The fight against terrorism and prevention of radicalisation and recruitment of European citizens by terrorist organisations are concepts that necessarily need to go hand in hand because of their complex nature.</i>
Comments: The use of terms such as "radicalisation" without a definition broaden the scope of the Directive.	

Amendments 62-71: **NO POSITION**

Comment: These AMs fall outside our scope of work.

-  **Amendment 72**
Caterina Chinnici, Marju Lauristin, Emilian Pavel, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Recital 4 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(4a) Considering that the internet is being used for terrorist propaganda and recruitment, Member States should take appropriate measures for flagging illegal content on the internet and facilitating the detection of such content, and cooperate with each other, with Europol and other relevant Union agencies, as well as with civil society organisations active in this field.</i>
Comments: The AM does not say who should be responsible in case action is taken against LEGAL content. The amendment overlooks the right to remedy and the intervention of a judge.	

Amendment 73: **NO POSITION**

Comment: This AM falls outside our scope of work.

-  **Amendment 74**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 4 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(4a) Member States should strengthen the professionalism of security forces, law enforcement agencies and justice institutions; and ensure effective oversight and accountability of such bodies, in conformity with international human rights law and the rule of law. This includes human rights training to security forces including on how to respect human rights within the context of measures taken to counter violent extremism and terrorism.</i></p>
<p>Comments: This AM is a recommendation that is part of the UN Secretary-General plan of action against violent extremism leading to terrorism (cf. para. 50).</p>	



Amendment 75

Monika Hohlmeier

Proposal for a directive

Recital 4 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(4a) Certain forms of internet use can be conducive to radicalisation, enabling fanatics throughout the world to connect with each other and recruit vulnerable individuals without any physical contact whatsoever and in a manner that is difficult to trace. The internet generates specific challenges given its global and cross-border nature, thus giving rise to legal gaps and jurisdictional conflicts. Every Member State should set up a special unit tasked with detecting and signalling illegal content on the internet and with facilitating the detection, blocking and removal of such content. The creation by Europol of the Internet Referral Unit (IRU), responsible for detecting illegal content and supporting Member States in this regard, while fully respecting the fundamental rights of all parties involved, represents a significant step forward in this regard. Member States' units should also cooperate with the Union counter terrorism coordinator and the European Counter Terrorist Centre within Europol, as well as with civil society organisations active in this field. Member States should enforce cooperation with each other and with the</i></p>

	<i>relevant Union agencies on these matters.</i>
Comments: While we support certain objectives this AM is trying to achieve, we are of the opinion that is not suitable for being part of a legal text. The amendment welcomes the establishments of the IRUs, without waiting for a proper assessment or review of how they will work, their effectiveness, their compliance with EU rules, etc.	



Amendment 76

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos

Proposal for a directive

Recital 4 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(4a) Member States should strengthen the professionalism of security forces, law enforcement agencies and justice institutions; and ensure effective oversight and accountability of such bodies, in conformity with international human rights law and the rule of law. This includes human rights training to security forces including on how to respect human rights within the context of measures taken to counter violent extremism and terrorism.</i>
Comments: This AM is a recommendation that is part of the UN Secretary-General plan of action against violent extremism leading to terrorism (cf. para. 50).	

Amendment 77: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 78

Ana Gomes

Proposal for a directive

Recital 4 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(4a) Considering that the internet is being used for terrorist propaganda and recruitment, Member State should take appropriate measures for flagging illegal content on the internet and facilitating the detection of such content, and cooperate with each other, with Europol, namely by providing information on suspicious individuals or organisations to Europol's databases SIENA and EIS and to the EU Counter-Terrorism Coordinator, and other relevant Union agencies, as well as with civil society organisations active in this field.</i>
Comments: The AM does not say who should be responsible in case action is taken against LEGAL content, contrary to a recent report from the Council of Europe. See	

<http://www.coe.int/en/web/freedom-expression/study-filtering-blocking-and-take-down-of-illegal-content-on-the-internet>.

The amendment overlooks the right to remedy and the intervention of a judge. In addition, it refers to “suspicious individuals”, which is not defined. This Directive must respect the presumption of innocence and refer to "criminal suspects" instead.

+ Amendment 79
Maite Pagazaurtundúa Ruiz
Proposal for a directive
Recital 4 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(4b) A greater coordination between Europol and Eurojust as a complement of the mandatory exchange of information between several intelligence agencies of the Member States, aiming at improving the collaboration and trust between them.</i>
Comments: We support the objective of this amendment.	

- Amendment 80
Maite Pagazaurtundúa Ruiz
Proposal for a directive
Recital 4 c (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(4c) Is urgent to strengthen the EU INTCEN to turn it into a true European Intelligence Agency that possess enough instruments and resources to act effectively in a European scale.</i>
Comments: This falls outside the scope of this Directive and possibly outside EU competences.	

Amendment 81: NO POSITION

Comment: This AM does not affect the English version.

+ Amendment 82
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán
Proposal for a directive
Recital 5

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, so that it covers more comprehensively conduct	(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, so that it covers more comprehensively conduct

related to in particular foreign terrorist fighters and terrorist financing. <i>These forms of behaviour should be punishable also if committed through the Internet, including social media.</i>	related to in particular foreign terrorist fighters and terrorist financing.
Comments: We welcome this AM as it is not clear why a reference to the Internet is needed. Criminal offences should be technology-neutral insofar as possible.	



Amendment 83

Caterina Chinnici, Tanja Fajon, Juan Fernando López Aguilar, Kati Piri

Proposal for a directive

Recital 5

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, <i>including</i> offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, <i>so that it covers more comprehensively conduct related to in particular foreign terrorist fighters and terrorist financing. These forms of behaviour should be punishable also if committed through the Internet, including social media.</i>	(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, <i>while respecting the principle of proportionality, with regard to the legitimate aims pursued and to the necessity of criminalisation in a democratic society.</i>
Comments: We welcome this AM as it introduces safeguards. In addition, it is not clear why a reference to the Internet was needed because criminal offences should be technology-neutral insofar as possible.	



Amendment 84

Ana Gomes

Proposal for a directive

Recital 5

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, <i>including</i> offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, <i>so that it covers more comprehensively conduct related to in particular foreign terrorist fighters and terrorist financing. These forms of behaviour should be punishable also if committed through the Internet, including social media.</i>	(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, <i>while respecting the principle of proportionality, with regard to the legitimate aims pursued and to the necessity of criminalisation and fighting impunity in a democratic society.</i>

Comments: See comments to AM 83.

 **Amendment 85**
Emilian Pavel
Proposal for a directive
Recital 5

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, so that it covers more comprehensively conduct related to in particular foreign terrorist fighters and terrorist financing. These forms of behaviour should be punishable also if committed through the Internet, including social media.</p>	<p>(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, must be harmonised in all Member States so that it covers in a more comprehensive way, the conduct related to in particular, but not only, foreign terrorist fighters and terrorist financing, including virtual currencies. These forms of behaviour must be punishable also if committed through the Internet, including social media.</p>
<p>Comments: The European Parliament has recently argued in favour of cautious regarding regulating “virtual currencies” and not to overestimate the risks (see report on virtual currencies, rapporteur: German S&D member Jakob von Weizsäcker). We encourage you to follow the same approach. In any event, it is not conceivable that “financing” would be implemented in a Member State in a way that did not cover all forms of financing. See also, http://ecrgroup.eu/news/virtual-currencies-find-support-in-the-european-parliament/</p>	

 **Amendment 86**
Sophia in 't Veld, Kaja Kallas, Fredrick Federley
Proposal for a directive
Recital 5

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, so that it covers more comprehensively conduct related to in particular foreign terrorist fighters and terrorist financing. These forms of behaviour should be punishable also if committed through the Internet, including social media.</p>	<p>(5) Taking account of the evolution of terrorist threats and legal obligations to the Union and Member States under international law, the definition of terrorist offences, including offences related to a terrorist group and offences related to terrorist activities, should be further approximated in all Member States, so that it covers more comprehensively conduct related to in particular foreign terrorist fighters and terrorist financing.</p>
<p>Comments: We welcome this AM as it is not clear why a reference to the Internet is needed. Criminal offences should be technology-neutral insofar as possible.</p>	

Amendment 87: NO POSITION

Comment: This AM falls outside our scope of work.

**Amendment 88**

Rachida Dati, Brice Hortefeux

Proposal for a directive

Recital 5 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(5a) The internet poses specific challenges by virtue of its global and cross-border nature, which can give rise to legal vacuums and jurisdictional conflicts and make it possible for recruiters and radicalised individuals to communicate remotely and easily from all corners of the world without the need to cross physical borders, establish a base or seek sanctuary in a particular country.</i></p>
<p>Comments: This AM fails to recognise the importance of the Internet and the benefits it portrays to the economy and human rights. It also adds no useful meaning to the Directive.</p>	


**Amendment 89**

Caterina Chinnici, Marju Lauristin, Tanja Fajon, Juan Fernando López Aguilar, Kati Piri


Proposal for a directive

Recital 5 a (new)


SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(5 a) Nothing in this directive shall have the effect of altering the rights, obligations and responsibilities of the Member States, humanitarian organisations and individuals under international law. The activities of parties to armed conflict, which are governed by international humanitarian law within the meaning of these terms under that law, and, inasmuch as they are governed by other rules of international law, are not governed by this Directive. Humanitarian activities carried out by impartial humanitarian organisations internationally recognised should not be considered as contributing to the criminal activities of terrorist groups.</i></p>
<p>Comments: We support the objective of this AM.</p>	

 **Amendment 90**
Rachida Dati, Brice Hortefeux
Proposal for a directive
Recital 5 b (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(5b) Certain forms of internet use, and the use of certain applications which provide the basis for other forms of communication, are conducive to radicalisation and to the development and organisation of terrorist networks, enabling fanatics throughout the world to connect with each other and recruit vulnerable individuals without any need for physical contact and in a manner that is difficult to trace.</i></p>
<p>Comments: This AM portrays the internet in an unfair way and is not appropriate for a legislative text. The internet can and should be used by everybody. Not because terrorist use cars, we should ban cars or restrict access to cars. Terrorists can also use suitcases. Should we ban suitcases? Should we make them transparent? The text also brings no particular new meaning to the Directive.</p>	

 **Amendment 91**
Rachida Dati, Brice Hortefeux
Proposal for a directive
Recital 5 c (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(5c) Each Member State should set up a special unit tasked with flagging illegal content on the internet and with facilitating the detection and removal of such content, on the basis of cooperation with the Internet Referral Unit set up within Europol. The framing, in a manner consistent with fundamental rights and freedom of expression, of an effective strategy for the detection and removal of illegal content which acts as an incitement to violence is essential, as is the dissemination of effective arguments to counter terrorist propaganda.</i></p>
<p>Comments: This amendment falls outside the scope of this legislation. The recently adopted Europol Regulation covers the referrals of content. What is more, it is not clear whether this amendment is only referring to illegal content or both illegal and content inciting to violence which is not necessarily illegal.</p>	

 **Amendment 92**
Rachida Dati
Proposal for a directive
Recital 5 d (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(5d) Internet and social media companies and service providers have a legal responsibility to cooperate with Member State authorities by deleting any illegal content that propagates violent extremism, as quickly as possible and in a manner entirely consistent with the rule of law and fundamental rights, including freedom of expression. Member States should consider legal action, including criminal prosecutions, against internet and social media companies and service providers which refuse to comply with an administrative or judicial request to delete from their internet platforms illegal content or content extolling terrorism. The refusal or deliberate failure by internet platforms to cooperate, thus allowing such illegal content to circulate, should be regarded as an act of complicity that can be equated to criminal intent or neglect and in such cases those responsible should be brought to justice.</i></p>
<p>Comments: The first part of the text is factually incorrect. The second part of this amendment confuses legal and illegal content (it talks about “illegal content or...”). In addition, the internet industry has the obligation to remove content expeditiously once it has actual knowledge of “illegal content” under the E-Commerce Directive. Finally, there is no experience/evidence in Europe that suggests that Internet platforms are leaving illegal terrorist material online, meaning that this amendment is seeking to solve a problem that probably does not exist.</p>	

Amendment 93-94: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 95

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 6 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(6 a) The provision of humanitarian assistance by impartial humanitarian organisations recognised by international humanitarian law such as the International Committee of the Red Cross (ICRC) should not be considered as contributing to the criminal activities of a terrorist group.</i></p>

Comments: We support the objective of this AM.

Amendment 96: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 97

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 6 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(6a) The criminalisation of offences covered by this Directive must be contingent on observance of the principle of materiality, which requires conduct to have an external manifestation if it is to be deemed damaging or a threat to the interest being protected.</i>
Comments: We support the objective of this AM.	



Amendment 98

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 6 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(6b) This Directive covers acts which are considered by all Member States as serious infringements of their criminal laws committed by individuals whose objectives constitute a threat to their democratic societies respecting the rule of law and the civilisation upon which these societies are founded. It has to be understood in this sense and cannot be construed so as to argue that the conduct of those who have acted in the interest of preserving or restoring these democratic values, as was notably the case in some Member States during the Second World War, could now be considered as "terrorist" acts. Nor can it be construed so as to incriminate on terrorist grounds persons exercising their fundamental right to manifest their opinions, even if in the course of the exercise of such right they commit offences, or persons or groups conducting attacks against the military and military infrastructure of dictatorial regimes. Similarly, incitement to attacks against the military</i>

	<i>infrastructure of dictatorial regimes, and glorification of such attacks, should not be covered by this Directive.</i>
Comments: We support the objective of this AM, especially its second part, as it provides a safeguard for freedom of expression.	



Amendment 99

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos, Malin Björk

Proposal for a directive

Recital 7

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed.</i>	<i>deleted</i>
<p>Comments: Recital 7 should be deleted. As the Meijers Committee stated, “this recital leads to a disproportional infringement of freedom of expression including the freedom of the press”. “Member States may interpret this as meaning that, even if there is no real danger of future offences, offence to victims and their families is sufficient reason to criminalise expressions”. In addition, it is not clear whether with this recital Member States would be criminalising individuals sharing messages or images for ‘journalistic purposes’. cf. http://www.commissie-meijers.nl/sites/all/files/cm1603_note_on_a_proposal_for_a_directive_on_combating_terrorism.pdf</p>	




Amendment 100

Eva Joly, Jan Philipp Albrecht, Jean Lambert


Recital 7

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed.</i>	<i>deleted</i>

Comments: Recital 7 should be deleted. As the Meijers Committee stated, “this recital leads to a disproportional infringement of freedom of expression including the freedom of the press”. “Member States may interpret this as meaning that, even if there is no real danger of future offences, offence to victims and their families is sufficient reason to criminalise expressions”.²¹ In addition, it is not clear whether with this recital Member States would be criminalising individuals sharing messages or images for ‘journalistic purposes’. cf. http://www.commissie-meijers.nl/sites/all/files/cm1603_note_on_a_proposal_for_a_directive_on_combating_terrorism.pdf

 **Amendment 101**
Victor Boştinaru
Proposal for a directive
Recital 7

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed.</p>	<p>(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed. Websites containing public incitements to commit criminal acts of terrorism should be penalised accordingly.</p>
<p>Comments: Provisions on criminalising speech should contain clear safeguards.</p>	

 **Amendment 102**
Caterina Chinnici, Marju Lauristin, Emilian Pavel, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Recital 7

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed.</p>	<p>(7) The offenses related to public provocation to commit a terrorist offence act may comprise, inter alia, the justification of terrorism or the dissemination of messages as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed. To strengthen action against public provocation to commit a terrorist offence, Member States may take measures to remove webpages publicly</p>

	<i>inciting to commit terrorist offences. Such measures should be taken after adequate control by the judicial authority, in order to guarantee their proportionality and the full respect of fundamental rights and procedural safeguards.</i>
Comments: While we think blocking and removal of content falls outside the scope of this Directive (cf. Article 1 of the draft Directive), this AM provides good safeguards.	



Amendment 103

Ana Gomes

Proposal for a directive

Recital 7

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(7) The offenses related to public provocation to commit a terrorist offence act comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed.	(7) The offenses related to public provocation to commit a terrorist offence act may comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images including those related to the victims of terrorism as a way to gain publicity for the terrorists cause or seriously intimidating the population, provided that such behaviour causes a danger that terrorist acts may be committed. To strengthen action against public provocation to commit a terrorist offence, Member States may take measures to remove webpages publicly inciting to commit terrorist offences. Such measures should be taken after adequate control by the judicial authority, in order to guarantee their proportionality and the full respect of fundamental rights and procedural safeguards.
Comments: Comments: While we think blocking and removal of content falls outside the scope of this Directive (cf. Article 1 of the draft Directive), this AM provides good safeguards.	



Amendment 104

Monika Hohlmeier

Proposal for a directive

Recital 7 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(7a) The most effective means of combatting terrorism on the Internet is to remove illegal terror content at source. Member States should use their best endeavours to cooperate with third countries in seeking to secure the removal

	<p><i>of such content from servers within their territory. However when removal of illegal terror content at its source is not possible, Member States may put in place measures to block access from the Union's territory to Internet pages identified as containing or disseminating terrorist content.</i></p> <p><i>The measures undertaken by Member States in accordance with this Directive in order to remove or, where appropriate, block websites could be based on various types of public action, such as legislative, non-legislative, judicial or other. In that context, this Directive is without prejudice to voluntary action taken by the Internet industry to prevent the misuse of its services or to any support for such action by Member States.</i></p> <p><i>Member States should ensure that mechanisms to remove or block access to terror content take account of the rights of Internet Services Providers and of the end users and comply with existing legal and judicial procedures.</i></p>
<p>Comments: This AM seems to be in clear breach of the Charter of Fundamental Rights (Article 52 - restrictions must be provided for by law) and the Telecommunications Single Market Regulation (Recital 13 & Article 3.3(2)a).</p>	

+ **Amendment 105**
Petr Ježek, Maite Pagazaurtundúa Ruiz
Proposal for a directive
Recital 7 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(7a) Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, Member States shall ensure that the service provider is not liable for the information transmitted, on condition that the provider does not initiate the transmission, does not select the receiver of the transmission, and does not select or modify the information contained in the transmission.</i></p>
<p>Comments: We support the objective of this AM, which is in line with the E-Commerce Directive.</p>	

Amendments 106-113: NO POSITION


Comment: These AMs fall outside our scope of work.

 **Amendment 114**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 9

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(9) Criminalisation of the receiving training for terrorism complements the existing offence of providing training and specifically addresses the threats resulting from those actively preparing for the commission of terrorist offences, including those ultimately acting alone.	(9) Criminalisation of the receiving training for terrorism complements the existing offence of providing training and specifically addresses the threats resulting from those actively preparing for the commission of terrorist offences, including those ultimately acting alone. <i>This criminalisation should only cover active participation in the training; the mere fact of visiting websites containing information or receiving communications should not be covered.</i>
Comments: We support the objective of this AM.	

Amendments 115: NO POSITION


Comment: This AM falls outside our scope of work.

 **Amendment 116**
Victor Boştinaru
Proposal for a directive
Recital 9 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(9a) Cybernetic attacks carried out for terrorist purposes or by a terrorist organisation should be punishable in the Member States.</i>
Comments: Regarding the concept ‘cybernetic attacks ...for terrorist purposes’, this appears superfluous. This AM is seeking to solve a problem whose existence is not known and never been shown. To the extent it might exist, it is already criminal under the Council of Europe's Cybercrime Convention and Directive 2013/40/EU on attacks to Information systems, so it is unclear what added value this prohibition would bring in addition to existing European legal framework.	

Amendments 117-123: NO POSITION

Comments: These AMs fall outside our scope of work.

 **Amendment 124**
Monika Hohlmeier
Proposal for a directive
Recital 10 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(10 a) Financial investigations may be fundamental in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. Such investigations may be very productive, particularly when tax and customs authorities, financial intelligence units (FIUs) and judicial authorities are involved at an early stage of the investigation. Efforts conducted by the Member States aimed at preventing, investigating and combatting terrorist financing should make full use of Europol's financial intelligence and counter terrorist financing capabilities, including the Terrorist Financing Tracking Program (TFTP), FIU.Net, and teams responsible for operational support to Member States within anti-money laundering and asset recovery. Member States should endeavour to ensure a more efficient and coordinated approach aiming at establishing specialised units at national level to deal with financial investigations, including those related to the misuse of virtual currencies, into terrorism. Such a centralisation of expertise may have considerable added value and contribute substantially to securing successful prosecutions.</i></p>
<p>Comments: This text does not seem to have any useful elements that would aid in implementing the operative part of the Directive.</p>	

 **Amendment 125**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 10 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(10 a) Financial investigations may be fundamental in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. Such investigations may be very productive, particularly when tax and customs authorities, financial intelligence units (FIUs) and judicial</i></p>

	<p><i>authorities are involved at an early stage of the investigation. Member States should endeavour to ensure a more efficient and coordinated approach aiming at establishing specialised units at national level to deal with financial investigations into terrorism. Such a centralisation of expertise may have considerable added value and contribute substantially to securing successful prosecutions. In addition, cooperation between FIUs through the FIU.net platform should be strengthened.</i></p>
<p>Comments: This text does not seem to have any useful elements that would aid in implementing the operative part of the Directive.</p>	

Amendments 126-132: NO POSITION

Comments: These AMs fall outside our scope of work.



Amendment 133

Monika Hohlmeier

Proposal for a directive

Recital 11 b (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(11b) Furthermore the development of malware to be exclusively used for the purpose of terrorist or serious criminal activities or to the benefit of terrorist groups should be punishable in the Member States.</i></p>
<p>Comments: Regarding the concept ‘malware for terrorist purposes’, this appears superfluous. This AM is seeking to solve a problem whose existence is not known and never been shown. To the extent it might exist, it is already criminal under the Council of Europe's Cybercrime Convention and Directive 2013/40/EU on attacks to Information systems, so it is unclear what added value this prohibition would bring in addition to existing European legal framework.</p>	

Amendments 134-137: NO POSITION

Comments: These AMs fall outside our scope of work.



Amendment 138

Michał Boni, Carlos Coelho

Proposal for a directive

Recital 13

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission <i>may</i> be</p>	<p>(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission <i>should</i> be</p>

inferred from objective, factual circumstances.	inferred from objective, factual circumstances.
Comments: This AM brings clarity to the text. We would prefer the wording of AM 141.	



Amendment 139

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 13

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission may be inferred from objective, factual circumstances .	(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission may be inferred from the fact that it has an external manifestation .
Comments: It is not clear what this AM is trying to achieve.	



Amendment 140

Caterina Chinnici, Birgit Sippel, Ana Gomes, Marju Lauristin, Juan Fernando López

Aguilar, Kati Piri

Proposal for a directive

Recital 13

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission may be inferred from objective, factual circumstances.	(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission should be inferred from objective, factual circumstances.
Comments: This AM brings clarity to the text. We would prefer the wording of AM 141.	



Amendment 141

Sophia in 't Veld, Kaja Kallas, Fredrick Federley

Proposal for a directive

Recital 13

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission may be inferred from objective, factual circumstances.	(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission should be based on objective, factual circumstances.
Comments: This AM brings further clarity to the text.	




Amendment 142

Cornelia Ernst, Marina Albiol Guzmán, Kostas Chrysogonos

Proposal for a directive
Recital 13


SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission may be inferred from objective, factual circumstances.	(13) With regard to the criminal offences provided for in this Directive, the notion of intention must apply to all the elements constituting those offences. The intentional nature of an act or omission should be inferred from objective, factual circumstances.
Comments: This AM brings clarity to the text. We would prefer the wording of AM 141.	

 **Amendment 143**
Birgit Sippel, Caterina Chinnici
Proposal for a directive
Recital 13 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(13a) For the offences related to terrorism as set out in this Directive to be punishable, there should always be a link between these offences and a terrorist group or terrorist offence.</i>
Comments: This is a very important safeguard.	

Amendments 144: NO POSITION

Comment: This AM falls outside our scope of work.

 **Amendment 145**
Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo
Proposal for a directive
Recital 14 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(14a) Prompt and effective sharing of relevant information and data Member States obtained from EU-wide databases is an effective tool in anti-terrorism investigations. Member States should therefore take the steps required in order to make judicial and police cooperation compulsory within the EU, using the dedicated structures and channels put in place by the relevant European agencies.</i>
Comments: We welcome the objective of this AM, but miss data protection safeguards.	

Amendments 146-149: NO POSITION

Comments: These AMs fall outside our scope of work.

 **Amendment 150**
Soraya Post, Sajjad Karim, Julie Ward, Afzal Khan

**Proposal for a directive
Recital 15 a (new)**

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15a) In order to prevent and combat terrorism, a closer cross-border cooperation among the competent national and European authorities is needed with regard to expedient exchange of any relevant information from criminal records or other available sources and in particular on individuals who are or have been subject to criminal proceedings or asset freezing.</i>
Comments: While we welcome the objective of this AM, we miss data protection safeguards.	

 **Amendment 151**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 15 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15a) The Internet plays an essential role in promoting values of peace, tolerance and solidarity as well as promoting and protecting Human Rights and Fundamental Freedoms within and outside the European Union.</i>
Comments: The Commission's Draft Directive, or indeed all the texts on the table at the moment, refer to the Internet as being negative for society. Referring to the essential role of the Internet is very much welcomed.	

 **Amendment 152**
Caterina Chinnici, Marju Lauristin, Ana Gomes, Tanja Fajon, Emilian Pavel, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Recital 15 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15a) To ensure the success of investigations and prosecution of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, those responsible for investigating and prosecuting such offences shall have the possibility to make use of effective investigative tools such as those used in combating organised crime and other serious crimes. Such tools should be proportionate to the nature and gravity of the offences under investigation. In order to ensure the</i>

	<i>respect of the fundamental rights and freedom and the presumption of innocence and effective procedural safeguards, the use of such investigative tools should always be subject to the control of a judicial authority, and mass surveillance should never be allowed. Every individual should dispose of effective remedies to challenge any violation of his fundamental rights.</i>
Comments: We welcome the safeguards in this amendment. In particular, we emphasise the importance of judicial oversight and the prohibition against mass surveillance.	

Amendment 153: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 154

Monika Hohlmeier

Proposal for a directive

Recital 15 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15a) Considering that terrorist organisations rely heavily upon various electronic tools, the internet and social media to communicate, promote, and incite terrorist acts, to recruit potential fighters, to collect funds, or to arrange for other support for their activities, the issues related to electronic evidence create challenges in investigations and prosecutions of terrorist offences. Member States should therefore cooperate among each other, notably through Eurojust and Europol, to ensure a coordinated approach for the development of any measure that may prove efficient in dealing with the gathering, sharing, and admissibility of electronic evidence.</i>
Comments: This amendment is identical to AM 19. There are indeed indications of a need to increase cooperation between Member States in combating terrorism. The drafting implies that, in the absence of electronic tools, there would not be a need for Member States to cooperate, which makes little sense. This amendment is too vague to achieve this goal while ensuring that the proposed measures are in line with applicable EU data protection laws. In addition, “electronic tools” and “electronic evidence” are undefined concepts which, if introduced in legislation, would undermine legal certainty.	



Amendment 155

Jeroen Lenaers

Proposal for a directive

Recital 15 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(15a) whereas, with a view to preventing and combating terrorism, closer cross-border cooperation is needed between the competent national and European authorities, so that relevant information from criminal records or other sources can be exchanged rapidly concerning radicalised persons, particularly persons who have been prosecuted or whose assets have been frozen; whereas, in order to prevent and combat terrorism, it is also necessary for national and European authorities and third countries to exchange accurate and adequate information about persons who have been denied admission to the territory of a Member State or third country or been deported on suspicion of involvement in crimes as referred to in this Directive.</i></p>
<p>Comments: We agree with the need to increase cooperation between Member States in combating terrorism. However, this amendment must clarify that the proposed measures will in line with applicable EU data protection laws.</p>	



Amendment 156

Caterina Chinnici, Marju Lauristin, Ana Gomes, Emilian Pavel, Juan Fernando López Aguilar, Christine Revault D'Allonnes Bonnefoy, Kati Piri

Proposal for a directive

Recital 15 b (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(15b) In order to prevent and combat terrorism, a closer cross-border cooperation among the competent national authorities is needed with regard to timely exchange of relevant information from court records or other available sources on detainees and persons who are or have been subject to criminal proceedings or assets freezing.</i></p>
<p>Comments: We support the objective of this amendment to increase cross-border cooperation. However, this amendment is too vague (“other available sources”) to achieve this objective and fails to take into account the necessity for such cooperation to be in line with applicable EU data protection laws.</p>	



Amendment 157

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 15 b (new)

MIXED POSITION

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15b) In order to prevent and combat terrorism, a closer cross-border cooperation among the competent national and European authorities is needed with regard to expedient exchange of any relevant information from criminal records or other available sources on individuals who are suspects of a criminal offence or have been subject to criminal proceedings or asset freezing. This provision is without prejudice to the [Data Protection Directive (Directive (EU) 2016/... of the European Parliament and of the Council of ...on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA)].</i>
<p>Comments: We support the objective of this amendment to increase cross-border cooperation while ensuring compliance with EU data protection legislations. However, other human rights protection should be considered when exchanging data. Finally, the term "other available sources" is unclear and should be removed or clarified.</p>	



Amendment 158

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Recital 15 b (new)

OPPOSE

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15b) Member States should support programmes to prevent radicalisation, involving measures such as information campaigns and the development of alternative narratives to counter terrorist propaganda, and should involve civil society groups, relevant local communities and other stakeholders in devising strategies to guard against radicalisation, recruitment and violent extremism.</i>
<p>Comments: We support the objective of this amendment as well as the inclusion of diverse stakeholders. However, <u>this amendment falls outside the scope of this Directive</u> (see Article 1). It is dangerous to impose obligations on Member States to support programmes that would develop counter-narratives, not least due to the high risk of counterproductive effects. Additional wording ensuring transparency and independence around these programmes and the narratives developed would need to be added. State-sponsored or private-sponsored narratives are likely to be counterproductive or effective.</p>	



Amendment 159

Monika Hohlmeier

Proposal for a directive

Recital 15 b (new)

MIXED POSITION

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(15b) Member States have various existing information sharing mechanisms and analysis files at their disposal which are provided by Interpol as well as by Europol and other authorities and agencies of the Union. Member States and their law enforcement authorities should increase their utilisation of these systems and databases, both in quantitative and qualitative terms, to enhance their prevention and counter-terrorism capabilities by sharing and retrieving information and by conducting systematic strategic and operational analyses in accordance with applicable legal requirements and limits.</i>
<p>Comments: We agree with the need to increase cooperation between Member States in combating terrorism. However, this amendment must clarify that the proposed measures will need to be in line with applicable EU data protection laws. The use of the word “quantitative” is not clear in this context – does it refer to improved data analysis or a demand for “more” data as an end in itself.</p>	

**Amendment 160**

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 15 c (new)

SUPPORT

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(15c) Member States should cooperate among each other, notably through Eurojust, to ensure a coordinated approach for the development of necessary, proportionate and effective measures in dealing with the gathering, sharing, and admissibility of electronic evidence, in compliance with the [Data Protection Directive (Directive (EU) 2016/... of the European Parliament and of the Council of ...on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA)].</i></p>
<p>Comments: We support the objective of this amendment to increase cross-border cooperation while ensuring compliance with EU data protection legislations.</p>	

Amendment 161: NO POSITION

Comment: This AM falls outside our scope of work.

**Amendment 162**

Monika Hohlmeier

Proposal for a directive

Recital 15 c (new)

OPPOSE

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(15c) A Eurojust report of November 2014^{1a} notes that the challenges of gathering and analysis of electronic evidence are twofold:</i></p> <p><i>(1) Dealing with the abuse of encryption and anonymity especially in relation to attribution (e.g. the growing sophistication and wider use of anonymisers, proxy servers, Tor and other anonymity networks, satellite links and foreign 3G networks make it difficult to associate an IP address with criminal activity).</i></p>

	<i>(2) Dealing with the legal and technical obstacles in relation to data being stored in the cloud.</i>
<p>Comments: This amendment is unnecessary. The use, effect and need of a reference to a Eurojust report within a legislative proposal is not suitable and its aim is unclear. Furthermore, the concept of “abuse of encryption and anonymity” is neither mentioned in the Eurojust report of November 2014 nor defined in this amendment. This amendment fails to recognise the security benefits of encryption and anonymity. In fact, undermining encryption weakens the security and privacy of all internet users. See https://www.edri.org/files/20160125-edri-crypto-position-paper.pdf</p>	

Amendments 163-167: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 168

Teresa Jiménez-Becerril Barrio

Proposal for a directive

Recital 16 b (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(16b) Member States need, in full respect of freedom of expression, engage with media and journalists to adopt measures of auto-regulation in the aftermath of a terror attack in order to guarantee the protection of the private life of victims and their family members and in addition recognise the value of cooperating with specialised services for victims assistance and support in helping victims to deal with the media attention they receive.</i>
<p>Comments: The aims behind this amendment are clearly positive. However, the phrase “adopt measure of auto-regulation in the aftermath” risks being understood as meaning that, in the aftermath of an attack, a self-regulation scheme should be set up.</p> <p>If specific problems have come to light after terrorist attacks, there would appear to be some merit in establishing self-regulatory guidelines for respect for victims, at the same time as protecting freedom of the media and freedom of expression. The development of such self-regulation should be developed <i>for</i> the aftermath of an attack and not <i>in</i> the aftermath of an attack.</p>	

Amendments 169-175: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 176

Ana Gomes

Proposal for a directive

Recital 17 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(17a) Repressive measures should be complemented by long-term policies to</i>


	<p><i>prevent the radicalisation and recruitment by terrorist organisations. Strategies on social inclusion, education, local support for families and policies tackling discrimination and exclusion to stop vulnerable individuals joining violent extremist organisations, as well as the provision of effective exit-programmes and exit-strategies, are crucial to countering terrorism and to promote deradicalisation.</i></p>
<p>Comments: We support the objective of this amendment. However, “repressive” should be changed for “punitive” for legal certainty, in line with AM 179 and 180. Also, the definition of “exit-programmes” and “exit-strategies” is unclear. We encourage you to support AM 177, instead.</p>	

+ Amendment 177
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 17 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(17a) A comprehensive policy to prevent the radicalisation and recruitment of citizens of the Union by terrorist organisations can only be successfully put in place if accompanied by long-term proactive de-radicalisation processes in the judicial sphere. Strategies on social inclusion, education, employment and housing and policies tackling discrimination and exclusion to stop vulnerable individuals joining violent extremist organisations are crucial to countering terrorism. Member States should therefore share good practices on the setting-up of de-radicalisation structures and their judicial approach in this regard notably through Eurojust. They should share such good practices not only among each other but also with third countries which have already acquired experience and achieved positive results in this area.</i></p>
<p>Comments: We support the objective of this amendment.</p>	

+/- Amendment 178
Caterina Chinnici, Marju Lauristin, Juan Fernando López Aguilar, Emilian Pavel, Christine Revault D'Allonnes Bonnefoy, Kati Piri
Proposal for a directive
Recital 17 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(17a) Repressive measures should be complemented by long-term policies to prevent the radicalisation and recruitment by terrorist organisations. Strategies on social inclusion, education, and policies tackling discrimination and exclusion to stop vulnerable individuals joining violent extremist organisations, as well as the provision of effective exit-programmes and exit-strategies, are crucial to countering terrorism.</i></p>
<p>Comments: We support the objective of this amendment. However, “repressive” should be changed for “punitive” for legal certainty, in line with AM 179 or 180. Also, the definition of “exit-programmes” and "exit-strategies" is unclear. We encourage you to support AM 177, instead.</p>	

 Amendment 179
Soraya Post, Sajjad Karim, Julie Ward, Afzal Khan
Proposal for a directive
Recital 17 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(17a) Punitive sanctions should be complemented by long-term policies to prevent the radicalisation and recruitment of citizens of the Union by terrorist organisations. Strategies on social inclusion, education, employment and housing and policies tackling discrimination and exclusion to stop vulnerable individuals joining violent extremist organisations are crucial to countering terrorism. Member States should also share good practices on the setting-up of de-radicalisation structures to prevent citizens of the Union and third-country nationals legally residing in the Union from leaving the Union or to control their return to it and their judicial approach in this regard notably through Eurojust. They should share such good practices not only among each other but also with third countries which have already acquired experience and achieved positive results in this area.</i></p>
<p>Comments: We support the objective of this amendment.</p>	

 Amendment 180
Kashetu Kyenge

**Proposal for a directive
Recital 17 a (new)**

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(17a) Punitive sanctions should be complemented by long-term policies to prevent the radicalisation and recruitment of citizens of the Union by terrorist organisations. Strategies on social inclusion, education, employment and housing and policies tackling discrimination and exclusion to stop vulnerable individuals joining violent extremist organisations are crucial to countering terrorism. Member States should also share good practices on the setting-up of de-radicalisation structures to prevent citizens of the Union and third-country nationals legally residing in the Union from leaving the Union or to control their return to it and their judicial approach in this regard notably through Eurojust. They should share such good practices not only among each other but also with third countries which have already acquired experience and achieved positive results in this area.</i></p>
<p>Comments: We support the objective of this amendment.</p>	

Amendment 181: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 182

Rachida Dati, Brice Hortefeux

Proposal for a directive

Recital 17 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(17a) Improved cooperation between Member States in combating terrorism must also involve intensive exchanges and cooperation between their judicial authorities and with Eurojust. The resources of Eurojust's Coordination Centre, which should play a critical role in promoting joint actions on the part of Member States' judicial authorities as regards the collection of evidence, should be strengthened. More use should therefore be made of the Joint Investigation Teams instrument, both among Member States and between</i></p>

	<i>Member States and third countries with which Eurojust has established cooperation agreements.</i>
Comments: We agree with the need to increase cooperation between Member States in the area of justice. However, “intensive” does not add much meaning and data protection safeguards must be added, in line with the recently adopted Data Protection Directive.	

Amendments 183-186: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 187

Sophia in 't Veld, Fredrick Federley

Proposal for a directive

Recital 19

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>	<p>(19) This Directive is without prejudice to fundamental rights and fundamental legal principles as enshrined in Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>
<p>Comments: The Legislator cannot act as the Judiciary and decide on the validity of the EU primary law, even if it should always ensure compliance with it. This amendment brings the minimum necessary changes to the text.</p>	



Amendment 188

Iratxe García Pérez, Teresa Jiménez-Becerril Barrio
on behalf of the Committee on Women's Rights and Gender Equality
Proposal for a directive
Recital 19

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>	<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, gender, sexual orientation, ethnic or social origin, genetic features, language, disability, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>
<p>Comments: We strongly support the inclusion of prohibitions on discrimination, on gender, sexual orientation and disability. However, the first line of the amendment is inadequate as making a statement like “this Directive respects” has no particular meaning.</p>	

 **Amendment 189**
Timothy Kirkhope, Daniel Dalton, Jussi Halla-aho, Angel Dzhambazki, Monica Macovei, Geoffrey Van Orden, Branislav Škripek
Proposal for a directive
Recital 19

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the</p>	<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the</p>

<p>principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>	<p>principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression, freedom of speech, freedom of information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence and the right to a fair trial, the outcome of which is determined on the individual circumstances of the case, as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>
<p>Comments: The Legislator cannot act as the Judiciary and decide on the legality of a Directive, even if it should always seek to ensure this compliance. The first sentence of the text must therefore be modified.</p>	



Amendment 190

Caterina Chinnici, Birgit Sippel, Marju Lauristin, Ana Gomes, Tanja Fajon, Emilian Pavel, Juan Fernando López Aguilar, Liisa Jaakonsaari, Kati Piri

Proposal for a directive


Recital 19

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and</p>	<p>(19) This Directive, in accordance with Article 2 and 6 of the Treaty on the European Union, the European Convention for the protection of human rights and fundamental freedoms, and other relevant obligations under international law, should not have the effect of requiring Member States to take measures arbitrarily or unnecessarily limiting fundamental rights and freedoms and the principles recognised by the</p>

freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.

Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be **interpreted and** implemented in accordance with these rights and principles.

Comments: The first line of the recital is unacceptable as the Legislator cannot act as the Judiciary and rule on the legality of legislation. This amendment brings the necessary changes to the text and add positive language in that sense.

 **Amendment 191**
Geoffrey Van Orden, Timothy Kirkhope
Proposal for a directive
Recital 19

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief,</p>	<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression, freedom of speech, freedom of information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features,</p>

political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.

language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence **and the right to a fair trial, the outcome of which is determined by the individual circumstances of the case**, as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC, **recognising that exceptions may be made on the grounds of public policy or national security**. This Directive has to be implemented in accordance with these rights and principles.

Comments: The Legislator cannot act as the Judiciary and rule on the validity a Directive. The first sentence of the text must therefore be modified.



Amendment 192

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 19

MIXED POSITION

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(19) This Directive respects the principles recognised by Article 2 of the Treaty on the European Union, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity</p>	<p>(19) This Directive should respect the principles recognised, inter alia, by Articles 2 and 6 of the Treaty on the European Union, should respect fundamental rights and freedoms and should observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including those set out in Chapters II, III, V and VI thereof which encompass inter alia the right to liberty and security, freedom of expression and information, freedom of assembly and association and freedom of thought conscience and religion, the general prohibition of discrimination in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principle of legality and proportionality of criminal</p>

<p>and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be implemented in accordance with these rights and principles.</p>	<p>offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence, should respect the principles recognised in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and in the International Covenant on Civil and Political Rights (ICCPR), as well as freedom of movement as set forth in Article 21(1) of the Treaty on the Functioning of the European Union and Directive 2004/38/EC. This Directive has to be interpreted in accordance with these rights and principles.</p>
<p>Comments: We support the objective of this amendment to clarify the role of the Legislator in ensuring respect with the EU primary law rather than evaluating it as suggested by the Commission's proposal. However, the proposed language is too vague and fail to achieve this purpose.</p>	

+ Amendment 193
Birgit Sippel, Caterina Chinnici
Proposal for a directive
Recital 19 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(19a) Nothing in this Directive should be interpreted as being intended to reduce or restrict the Union acquis on procedural rights.</i></p>
<p>Comments: This amendment is a positive addition to clarify the interaction of this Directive with the Union acquis.</p>	

+ Amendment 194
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Recital 19 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(19a) Nothing in this Directive should be interpreted as being intended to reduce or restrict the dissemination of information for scientific, academic, journalistic or reporting purposes. The expression of radical, polemic or controversial views in the public debate on sensitive political questions falls outside the scope of this Directive and in particular of the definition of public provocation to commit terrorist offences.</i></p>
<p>Comments: This amendment is a positive addition to clarify the scope of the Directive.</p>	

Amendment 195: NO POSITION

Comment: This AM falls outside our scope of work.

**Amendment 196**

Caterina Chinnici, Ana Gomes, Marju Lauristin, Juan Fernando López Aguilar, Liisa Jaakonsaari, Kati Piri

Proposal for a directive

Recital 20

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(20) The implementation of the criminalisation under this Directive should be proportional to the nature and circumstances of the offence, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.</p>	<p>(20) The implementation of this Directive should be proportional to the nature and circumstances of each case, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.</p>
<p>Comments: This amendment strengthens the Commission's proposal by suggesting changes in line with the EU Charter and the UN's Plan of Action against Violent Extremism leading to terrorism.</p>	

**Amendment 197**

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Recital 20

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(20) The implementation of the criminalisation under this Directive should be proportional to the nature and circumstances of the offence, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.</p>	<p>(20) The implementation of this Directive should be proportional to the nature and circumstances of each case, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.</p>
<p>Comments: This amendment strengthens the Commission's proposal by suggesting changes in line with the EU Charter and the UN's Plan of Action against Violent Extremism leading to terrorism.</p>	

**Amendment 198**

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos

Proposal for a directive

Recital 20

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(20) The implementation of the criminalisation under this Directive should be proportional to the nature and circumstances of the offence, with respect to the legitimate aims pursued and to their necessity in a democratic society, and</p>	<p>(20) The implementation of this Directive should be proportional to the nature and circumstances of each case, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or</p>

should exclude any form of arbitrariness or discrimination.	discrimination.
Comments: This amendment strengthens the Commission's proposal by suggesting changes in line with the EU Charter and the UN's Plan of Action against Violent Extremism leading to terrorism.	

+ Amendment 199
Sophia in 't Veld, Fredrick Federley
Proposal for a directive
Recital 20

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(20) The implementation of the criminalisation under this Directive should be proportional to the nature and circumstances of the offence, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.	(20) The implementation of the criminalisation under this Directive should be proportional to the nature and circumstances of the offence and of each case , with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discrimination.
Comments: This amendment strengthens the Commission's proposal by suggesting changes in line with the EU Charter and the UN's Plan of Action against Violent Extremism leading to terrorism.	

+ Amendment 200
Cornelia Ernst, Barbara Spinelli, Kostas Chrysogonos, Malin Björk
Proposal for a directive
Recital 20 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(20a) The Internet plays an essential role in promoting values of peace, tolerance and solidarity as well as promoting and protecting Human Rights and Fundamental Freedoms within and outside the European Union.</i>
Comments: We support this amendment echoing the 2011 Report from the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.	

+ Amendment 201
Caterina Chinnici, Marju Lauristin, Ana Gomes, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Recital 21

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(21) <i>The Directive should replace Framework Decision 2002/475/JHA²⁹ for the Member States bound by this Directive.</i>	(21) <i>This Directive replaces Framework Decision 2002/475/JHA²⁹.</i> ²⁹ As amended by Council Framework Decision 2008/919/JHA of 28 November

<p>²⁹ As amended by Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA (OJ L 330, 9.12.2008, p. 21).</p>	<p>2008 amending Framework Decision 2002/475/JHA (OJ L 330, 9.12.2008, p. 21).</p>
<p>Comments: This amendment clarifies the Commission's proposal.</p>	

Amendment 202: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 203

Kashetu Kyenge

Proposal for a directive

Recital 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(23a) In the implementation of this Directive, Member States should ensure that criminalisation is proportionate to the legitimate aims pursued and necessary in a democratic society. This Directive should not result in arbitrary decisions or in discriminatory policies and practices based on perceived nationality, religion, ethnic or racial origin. This Directive should not have the effect of requiring Member States to take measures in contradiction of their obligation to respect fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union nor the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 2 and 6 of the Treaty on European Union.</i></p>
<p>Comments: This amendment is a positive addition to clarify the scope and application of the Directive.</p>	



Amendment 204

Kashetu Kyenge

Proposal for a directive

Recital 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(23b) This Directive should not have the effect of requiring Member States to take measures which could result in direct or indirect discrimination or which would be based on religious practice and ethnic criteria.</i></p>
<p>Comments: This amendment is a positive addition to clarify the scope and application of the</p>	

Directive.

Amendment 205: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 206

Sirpa Pietikäinen, Liisa Jaakonsaari, Merja Kyllönen, Henna Virkkunen

Proposal for a directive

Article 1 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 1 a</p> <p style="text-align: center;">Human rights and fundamental principles</p> <p>1. Member States shall ensure that the implementation of this Directive is carried out while respecting human rights obligations, in particular the freedom of movement, freedom of expression and information, freedom of association and freedom of thought, conscience and religion as set forth in the Charter of Fundamental Rights of the European Union, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and other obligations under international law.</p> <p>2. Member States are not required to take measures in contradiction of constitutional rules relating to freedom of the press and freedom of expression in other media governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.</p> <p>3. The establishment, implementation and application of the criminalisation under this Directive should furthermore be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment.</p> <p>4. Nothing in this Directive shall affect rights, obligations and responsibilities of a Member State and individuals under international law, including international humanitarian law. The activities of armed</p>

	<i>forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Directive, and the activities undertaken by military forces of a Member State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Directive.</i>
Comments: This amendment brings positive clarification on human rights obligation of the Member States.	

Amendments 207-216: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 217

Ana Gomes

Proposal for a directive

Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) unduly compelling a Government or international organisation to perform or abstain from performing any act,	(b) using violence or the threat of violence to illegally compel a Government or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	



Amendment 218

Michał Boni, Carlos Coelho

Proposal for a directive

Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) unduly compelling a Government or international organisation to perform or abstain from performing any act,	(b) using violence or the threat of violence to compel or seek to compel a Government or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	



Amendment 219

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) unduly compelling a Government or	(b) using violence or the threat of

international organisation to perform or abstain from performing any act,	<i>violence to compel or seek to compel</i> a Government or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	

+ Amendment 220
Caterina Chinnici, Marju Lauristin, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) <i>unduly compelling</i> a Government or international organisation to perform or abstain from performing any act,	(b) <i>using violence or the threat of violence to compel</i> a Government or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	

+ Amendment 221
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos
Proposal for a directive
Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) <i>unduly compelling</i> a Government or international organisation to perform or abstain from performing any act,	(b) <i>using violence or the threat of violence to compel or seek to compel</i> a government <i>of a Member State</i> or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	

+ Amendment 222
Sophia in 't Veld, Fredrick Federley
Proposal for a directive
Article 3 – paragraph 1 – point b

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) <i>unduly compelling</i> a Government or international organisation to perform or abstain from performing any act,	(b) <i>using violence or the threat of violence to compel or seek to compel</i> a Government or international organisation to perform or abstain from performing any act,
Comments: The proposed amendment provide the legal certainty that was lacking in the Commission's proposal as “unduly compelling” is an undefined and untested concept from a legal perspective.	

Amendments 223-227: NO POSITION

Comment: These AMs fall outside our scope of work.

**Amendment 228**

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive**Article 3 – paragraph 2 – point d**

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss ;	(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life;
Comments: The language of this amendment should be further clarified for certainty: <ul style="list-style-type: none"> - “likely to endanger” should be changed for “endangering”; - Regarding “information system”, it seems peculiar to focus the legislation on the level of damage to an information system rather than loss of data or other consequences of the attack This incorrect focus is exacerbated by this amendment which refers to economic loss. On its own, it seems unlikely that an attack on a computer system would merit being considered a terrorist attack.	

**Amendment 229**

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos

Proposal for a directive**Article 3 – paragraph 2 – point d**

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss ;	(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property endangering human life;
Comments: The language of this amendment should be further clarified for certainty: <ul style="list-style-type: none"> Regarding “information system”, while attacks to databases and software risking data subjects' rights to privacy and data protection should be punishable, it would be disproportionate to consider those as a terrorist act. 	

Amendment 230-232: NO POSITION


Comment: These AMs fall outside our scope of work.

**Amendment 233**


Victor Boştinaru

Proposal for a directive**Article 3 – paragraph 2 – point h**

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;	(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource through cybernetic or other forms of attack the effect of which is to endanger human life;
Comments: “cybernetic attack” is an undefined, untested term. For sake of certainty, the proposed addition should be removed. “fundamental natural resource” should also be clarified.	

 **Amendment 234**
Emilian Pavel
Proposal for a directive
Article 3 – paragraph 2 – point h a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(ha) cyber-attacks such as hostile actions directed against network and information systems, which are either critical infrastructures and whose incapacitation or destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof, or other network and information systems that are essential for the functioning of other infrastructures of the state (e.g. air, rail, or road transportation infrastructure, energy, gas, oil or water supply systems, medical services, financial and banking system, etc.)</i>
Comments: Taking into account the definition of terrorist offences, this amendment is extremely broad. While attacks to network and information systems risking data subjects' rights to privacy and data protection should be punishable, it would be disproportionate to consider those as a terrorist act.	


 **Amendment 235**
Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo
Proposal for a directive
Article 3 – paragraph 2 – point i

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) threatening to commit any of the acts listed in points (a) to (h).	(i) <i>seriously</i> threatening to commit any of the acts listed in points (a) to (h), <i>as evidenced by objective and factual circumstances.</i>
Comments: The proposed amendment fixes the broad language of the Commission's proposal which could have led to arbitrary and discriminatory abuses.	


 **Amendment 236**
Caterina Chinnici, Birgit Sippel, Marju Lauristin, Juan Fernando López Aguilar, Kati

Piri
Proposal for a directive
Article 3 – paragraph 2 – point i


MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) threatening to commit any of the acts listed in points (a) to (h).	(i) seriously threatening to commit any of the acts listed in points (a) to (c).
Comments: The proposed amendment improves the certainty of this provision. However, further changes should be added to address the credibility of such threats.	

 **Amendment 237**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 3 – paragraph 2 – point i

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) threatening to commit any of the acts listed in points (a) to (h).	(i) seriously threatening to commit any of the acts listed in points (a) to (h), on the basis of objective, factual circumstances.
Comments: The proposed amendment fixes the broad language of the Commission's proposal which could have led to arbitrary and discriminatory abuses.	


 **Amendment 238**
Cornelia Ernst, Barbara Spinelli
Proposal for a directive
Article 3 – paragraph 2 – point i

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) threatening to commit any of the acts listed in points (a) to (h).	(i) seriously threatening to commit any of the acts listed in points (a) to (h), where the threat has been accompanied by physical manifestations of the threat.
Comments: The proposed amendment fixes the broad language of the Commission's proposal which needlessly creates the risk of arbitrary and discriminatory implementation.	

 **Amendment 239**
Axel Voss
Proposal for a directive
Article 3 – paragraph 2 – point i a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(ia) attacks against information systems as defined in articles 3 to 7 of Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA.
Comments: The tools referred to in article 3 to 7 of the Directive are not “information systems” as defined by the Council Framework Decision 2005/222/JHA. Furthermore, while those articles and the Council Framework refers to illegal interference and illegal attacks, those are criminal offences but not terrorist offences. Reclassifying such offences as terrorism	

would be disproportionate.

 **Amendment 240**
Cornelia Ernst, Barbara Spinelli, Kostas Chrysogonos
Proposal for a directive
Article 3 – paragraph 2 a (new)


SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>2a. Nothing in the present Directive should be construed to affect in any way other rights, obligations and responsibilities Member States and individuals have under international law, including international humanitarian law and international criminal law.</i>
Comments: This amendment brings clarity on Member States' obligation under international law.	

Amendments 241-244: NO POSITION

Comment: These AMs fall outside our scope of work.

 **Amendment 245**
Caterina Chinnici, Birgit Sippel, Tanja Fajon, Marju Lauristin, Juan Fernando López Aguilar, Christine Revault D'Allonnes Bonnefoy, Kati Piri
Proposal for a directive
Article 4 – paragraph 1 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>The provision of humanitarian activities by internationally recognised humanitarian organizations shall not be considered as contributing to the criminal activities of the terrorist groups.</i>
Comments: This amendment brings needed clarification. The language is, however, a mixture of US (“recognised”) and British (“organizations”) English.	

 **Amendment 246**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 4 – paragraph 1 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>Member States shall ensure that the provision of humanitarian assistance by impartial humanitarian organisations recognised by international humanitarian law shall not be considered as participating in the activities of a terrorist group.</i>
Comments: We welcome the objective of this amendment. However, the terms “impartial humanitarian organisation” create uncertainty and should be changed for “internationally recognised humanitarian organisations”.	

**Amendment 247**

Ana Gomes

Proposal for a directive

Article 4 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 4a Humanitarian organisations Humanitarian activities undertaken by internationally recognised humanitarian organisations shall not be considered as contributing to the criminal activities of the terrorist groups.
Comments: This amendment brings needed clarification.	

**Amendment 248**

Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite

Pagazaurtundúa Ruiz, Nathalie Griesbeck

Proposal for a directive

Article 5 – paragraph 1

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences , causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating the commission of a terrorist offence , causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: The proposed amendment improves the Commission's original proposal but further changes are needed to ensure legal certainty and avoid abuses.	

**Amendment 249**

Caterina Chinnici, Ana Gomes, Marju Lauristin, Emilian Pavel, Juan Fernando López

Aguilar, Kati Piri

Proposal for a directive

Article 5 – paragraph 1

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available , of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly	Member States shall take the necessary measures to ensure that the distribution of a message to the public, with the clear intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, advocating terrorist offences, causes a substantial and

advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	imminent danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally and unlawfully .
Comments: The proposed amendment brings needed clarification.	

 **Amendment 250**
Anna Maria Corazza Bildt
Proposal for a directive
Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available by any means, including the internet , of a message to the public, with the intent to incite, including glorifying , the commission of one of the offences listed in points (a) to (ha) of Article 3(2), where such conduct, whether directly or indirectly advocating the commission of terrorist offences, causes a clear and substantial danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: The reference to the Internet is unnecessary and confusing – Member States are unlikely to transpose and forget the internet. Also “including glorifying” is a vague term, precise language is to be preferred.	

 **Amendment 251**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 5 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available of a message to the public, with the clear intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not expressly advocating the commission of terrorist offences, manifestly causes a clear and substantial danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally and unlawfully .
Comments: We welcome the general direction of this amendment. However, for the offence of incitement to terrorism to comply with international human rights law, it should expressly	

refer to intent to communicate a message and intent that this message incite the commission of a terrorist act. Just the first sentence deviates from EDRI position (“Member States shall take the necessary measures to ensure that the *intentional and unlawful* distribution...”).



Amendment 252

Timothy Kirkhope, Daniel Dalton, Jussi Halla-aho, Angel Dzhambazki, Helga Stevens, Monica Macovei, Geoffrey Van Orden, Branislav Škripek

Proposal for a directive

Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission or encourage the preparation or instigation of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: This amendment reduces clarity. The difference between “incite the commission” and “encourage the instigation” is not clear. It is difficult to see how any activity that would “incited the commission” of an offence would not cover an activity that would “encourage the instigation” of that offence.	



Amendment 253

Victor Boştinaru

Proposal for a directive

Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, online display or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: There is no obvious need to explicitly cover internet communications. “Online display” has no obvious meaning, although this may be a translation issue.	



Amendment 254

Emilian Pavel

Proposal for a directive
Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (i) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: It is clearly important to be thorough. However, it seems impossible to create a terrorist offence of making available of a message with the intention of inciting someone to make a threat to carry out an offence. For the sake of ensuring the implementation of the Directive in a meaningful way, we would argue against this proposal.	

 **Amendment 255**
Axel Voss

Proposal for a directive
Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether directly or not directly (including glorifying of acts of terrorism) advocating terrorist offences, causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: Precise language is to be preferred, “including glorifying” is too vague.	

 **Amendment 256**
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán

Proposal for a directive
Article 5 – paragraph 1

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such	Member States shall take the necessary measures to ensure that the intentional distribution, or otherwise making available of a message to the public, with the clear knowledge and intent to incite the commission of one of the offences listed in

conduct, whether or not directly advocating terrorist offences , causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	points (a) to (h) of Article 3(2), where such conduct manifestly causes a clear and imminent danger that one or more such offences will be committed, is punishable as a criminal offence when committed intentionally.
Comments: The amendment acknowledges that the liability should not be in the illegality of the content of the speech alone, but on the speaker's intention. Furthermore, it includes a clearer risk that the act incited will be committed against it.	



Amendment 257

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 5 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct, whether or not directly advocating terrorist offences , causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that the distribution, or otherwise making available, of a message to the public that is clearly and objectively likely to incite the commission of one of the offences listed in points (a) to (h) of Article 3(2), where such conduct causes a danger that one or more such offences may be committed, is punishable as a criminal offence when committed intentionally.
Comments: The amendment goes into right direction, but lacks the restriction to intentional and unlawful behaviour.	



Amendment 258

Cornelia Ernst, Barbara Spinelli, Malin Björk

Proposal for a directive

Article 5 – paragraph 1 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	Nothing in this Directive should be interpreted as being intended to reduce or restrict the dissemination of information for scientific, academic or reporting purposes. The expression of radical, polemic or controversial views in the public debate on sensitive political questions falls outside the scope of this Directive and in particular of the definition of public provocation to commit terrorist offences.
Comments: This amendment excludes the application of the Directive to disseminations for scientific, academic or reporting purposes.	



Amendment 259

Caterina Chinnici, Ana Gomes, Tanja Fajon, Marju Lauristin, Emilian Pavel, Juan

Fernando López Aguilar, Liisa Jaakonsaari, Kati Piri
Proposal for a directive
Article 5 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<p>Article 5a</p> <p><i>Fundamental principles relating to freedom of expression</i></p> <p><i>1. This Directive shall not have the effect of requiring Member States to take measures in contradiction to fundamental rights and principles, especially those relating to freedom of thought and expression, in particular for the press and other media, as they result from fundamental principles governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.</i></p> <p><i>2. Nothing in this Directive should be interpreted as being intended to reduce or restrict the dissemination of information for scientific, academic or reporting purposes. The expression of radical, polemic or controversial views in the public debate on sensitive political questions, including terrorism, falls outside the scope of this Directive and, in particular, of the definition of public provocation to commit terrorist offences.</i></p>
<p>Comments: This amendment aims at the protection of fundamental rights; it excludes the application of the Directive to the dissemination for scientific, academic or reporting purposes.</p>	



Amendment 260
Axel Voss
Proposal for a directive
Article 5 a (new)

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<p>Article 5a</p> <p><i>Measures against websites publicly glorifying terrorist offences</i></p> <p><i>In case of glorification or public justification of the offences listed in points (a) to (h) of Article 3(2), the competent judicial authority shall order</i></p>

	<i>the withdrawal of the content.</i>
Comments: Precise language is to be preferred, “including glorifying” is a vague term.	

Amendment 261: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 262

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán

Proposal for a directive

Article 6 – paragraph 1

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4, where this manifestly causes a clear and imminent danger that one or more such offences may be committed , is punishable as a criminal offence when committed intentionally.
Comments: This amendment strengthens the proportionality of the proposal.	



Amendment 263

Michał Boni, Carlos Coelho

Proposal for a directive

Article 6 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 by any means, including Internet , is punishable as a criminal offence when committed intentionally.
Comments: The Internet does not need to be expressly mentioned as one channel of distribution.	



Amendment 264

Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite

Pagazaurtundúa Ruiz, Nathalie Griesbeck

Proposal for a directive

Article 6 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 is punishable as a criminal	Member States shall take the necessary measures to ensure that soliciting another person to commit or contribute to the commission of one of the offences listed in points (a) to (h) of Article 3(2), or in

offence when committed intentionally.	Article 4 is punishable as a criminal offence when committed intentionally.
Comments: This amendment widens scope of applicability in a very vague way. Precise language is essential in such instruments for efficacy and to avoid the risk of arbitrary enforcement.	



Amendment 265

Emilian Pavel

Proposal for a directive

Article 6 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (h) of Article 3(2), or in Article 4 is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that soliciting another person to commit one of the offences listed in points (a) to (i) of Article 3(2), or in Article 4, including the recruitment or enticement to the above mentioned terrorist offences via social media or other online environments , is punishable as a criminal offence when committed intentionally.
Comments: The explanation that the internet is also covered is unnecessary. Soliciting someone to threaten to commit an offence creates an unacceptably weak nexus between the individual and the threatened offence.	

Amendment 266: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 267

Cornelia Ernst, Marina Albiol Guzmán, Barbara Spinelli

Proposal for a directive

Article 7 – paragraph 1

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to one of the offences listed in points (a) to (h) of Article 3(2), knowing that the skills provided are intended to be used for this purpose, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or meaningfully contributing to one of the offences listed in points (a) to (h) of Article 3(2), knowing that the skills provided are intended to be used for this purpose, where the provision of instructions manifestly causes a clear and imminent danger that one or more such offences may be committed , is punishable as a criminal offence when committed intentionally.

Comments: This amendment clarifies the scope of the proposal.

 **Amendment 268**
Emilian Pavel
Proposal for a directive
Article 7 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to one of the offences listed in points (a) to (h) of Article 3(2), knowing that the skills provided are intended to be used for this purpose, is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to one of the offences listed in points (a) to (i) of Article 3(2), knowing that the skills provided are intended to be used for this purpose, is punishable as a criminal offence when committed intentionally.
Comments: Regardless of the policy issues at stake, the extension to threats does not make logical sense here.	

 **Amendment 269**
Timothy Kirkhope, Jussi Halla-aho, Angel Dzhambazki, Monica Macovei, Geoffrey Van Orden, Branislav Škripek
Proposal for a directive
Article 8 – title

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Receiving training for terrorism	Receiving and acquiring training for terrorism
Comments: This amendment is unacceptably vague.	

 **Amendment 270**
Timothy Kirkhope, Jussi Halla-aho, Angel Dzhambazki, Monica Macovei, Geoffrey Van Orden, Branislav Škripek
Proposal for a directive
Article 8 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of	Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of

Article 3(2) is punishable as a criminal offence when committed intentionally.	Article 3(2) is punishable as a criminal offence when committed intentionally. Member States shall also take the necessary measures to ensure that the 'self-study' of the same techniques and methods is also punishable as a criminal offence when the offences listed are committed intentionally.
Comments: The amendment is unacceptably vague.	



Amendment 271

Petr Ježek, Cecilia Wikström, Angelika Mlinar, Gérard Deprez, Louis Michel, Maite Pagazaurtundúa Ruiz, Nathalie Griesbeck

Proposal for a directive

Article 8 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally .	Member States shall take the necessary measures to ensure that to wilfully receive instruction, from another person, including on obtaining knowledge or practical skills , in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, with the intent to commit or to contribute to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence
Comments: This amendment adds further limits (“wilfully”) to the proposal; AM 273 is more precise. “Receiving instruction” on “obtaining knowledge” is extremely vague.	



Amendment 272

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 8 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that to receive practical instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.
Comments: AM adds further limits (“practical”) to the proposal; AM 273 is more precise.	



Amendment 273

Cornelia Ernst, Marina Albiol Guzmán, Barbara Spinelli

Proposal for a directive

Article 8 – paragraph 1

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that to wilfully receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2), where the reception of instructions manifestly causes a clear and imminent danger that one or more such offences may be committed , is punishable as a criminal offence when committed intentionally.
Comments: This amendment adds further clarity to the proposal.	



Amendment 274

Victor Boştinaru

Proposal for a directive

Article 8 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that to receive instruction, from another person or to obtain documentation giving instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.
Comments: Expands the scope of the Directive in an unclear way. The nexus between obtaining documentation and then learning the techniques, with a specific intent is very broad.	




Amendment 275

Emilian Pavel


Proposal for a directive

Article 8 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (i) of Article 3(2) is punishable as a criminal offence when committed intentionally.
Comments: Regardless of the policy issues at stake, it is logically very unlikely to receiving instruction on making explosives for the intention of making a threat.	

 **Amendment 276**
Monika Hohlmeier
Proposal for a directive
Article 8 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.	Member States shall take the necessary measures to ensure that to receive instruction, from another person in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, <i>development of malware to be exclusively used for a terrorist purpose</i> or in other specific methods or techniques, for the purpose of committing of or contributing to the commission of one of the offences listed in points (a) to (h) of Article 3(2) is punishable as a criminal offence when committed intentionally.
Comments: There is no evidence that any criminal developing malware would be concerned about its “exclusive use” for terrorist purposes.	

 **Amendment 277**
Cornelia Ernst, Barbara Spinelli
Proposal for a directive
Article 8 – paragraph 1 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<i>Member States shall ensure that mere fact of visiting websites containing information or receiving communications, which could be used for training for terrorism, is not in itself sufficient to commit the offence of receiving training for terrorism.</i>

Comments: This amendment adds clarity to the scope of the proposal. It is very important to minimise the risk of arbitrary enforcement of the Directive.

Amendments 278-285: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 286

Axel Voss

Proposal for a directive

Article 9 – paragraph 1 a (new)

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<i>Each Member State shall take the necessary measures to establish a list, including foreign fighters, terrorists, terrorist groups, people involved in recruiting and radicalisation. Member State shall update and insert their lists into SIS to make them available to all the other Member States and share them with Europol via protected and secured systems.</i>
<p>Comments: In the absence of an impact assessment, there is no way of knowing if this new set of 28 national databases and their proposed implementation would be likely to be necessary, effective, proportionate, legal or whether other, potentially better, options exist to keep European citizens safe</p>	



Amendment 287

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Article 9 – paragraph 1 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<i>Member States shall ensure that the defendant does not in any circumstances bear the burden of proof in establishing that his or her travel to another country is for a legitimate purpose.</i>
<p>Comments: This amendment helps establish a better balance in the Directive, helping reduce the impact of arbitrary implementation</p>	

Amendments 288-314: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 315

Rachida Dati

Proposal for a directive

Article 14 a (new)

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<i>Measures to combat internet platforms which incite people to terrorism or fail to</i>

	<p><i>cooperate in the fight against terrorism</i></p> <p><i>1. Member States shall take all the measures required to remove as soon as possible from internet platforms housed on their territory illegal content which publicly extols terrorism.</i></p> <p><i>2. Member States shall take measures to establish the criminal liability of internet, platforms, social media networks and internet service providers which refuse to comply with an administrative or judicial request to delete from their online platforms illegal content or content extolling terrorism.</i></p>
<p>Comments: The European Commission's definition of “internet platforms” (vis the Platforms Consultation and leaked Platforms Communication) would not cover this use of the term “internet platforms”. This literally means that any platform used potentially by a single individual for nefarious purposes, should be removed from the internet. It is also clearly excessive to suggest that internet companies should be held liable for content that is not actually illegal (illegal content or content extolling terrorism).</p>	



Amendment 316
Eva Joly, Jean Lambert
Proposal for a directive
Article 14 a (new)

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<p><i>Measures against websites publicly inciting to commit a terrorist offence</i></p> <p><i>1. Member States shall take the necessary measures to ensure the prompt removal of webpages publicly inciting to commit a terrorist offence, as referred to in Article 5, hosted in their territory and to endeavour to obtain the removal of such pages hosted outside of their territory.</i></p> <p><i>2. Where the measures described in paragraph 1 cannot be achieved, Member States may take measures to block access to webpages publicly inciting to commit a terrorist offence towards the Internet users within their territory. These measures must be provided for by law, subject to initial judicial control and periodic review, set by transparent procedures and provide adequate safeguards, in particular to ensure that the restriction is limited to what is demonstrably necessary and</i></p>

	<i>proportionate and that users are informed of the reason for the restriction. Those safeguards shall also include the possibility of judicial redress.</i>
<p>Comments: In the absence of an impact assessment on this Directive, and in the absence of any credible assessment of the impact of any blocking measure in relation to any illegal content in any EU Member State, there is a significant risk that the measure could be counterproductive.</p> <p>Insofar as there is political will to adopt such a measure – which falls outside the scope of the Directive - this amendment includes all appropriate safeguards.</p>	



Amendment 317
Monika Hohlmeier
Proposal for a directive
Article 14 a (new)

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<p><i>Measures against forms of organised crime which are typically committed in respect of the financing of terrorist acts Member States shall take the necessary measures to ensure that</i></p> <ol style="list-style-type: none"> <i>1. serious tax fraud, serious cases of tax evasion and evasion of import or export duties and serious cases of receiving or selling property resulting from tax evasion;</i> <i>2. money laundering;</i> <i>3. serious fraud;</i> <i>4. serious cases of counterfeiting trademarks;</i> <i>5. the illicit trade in goods, including but not limited to, crude oil, narcotics, works of art, weapons and protected species;</i> <p><i>in each case with the aim of commissioning one of the criminal offences listed in Article 3, is punishable as a criminal offence when committed intentionally.</i></p>
<p>Comments: In the absence of an impact assessment, there is no evidence available that one or all of these issues need additional legislation. Furthermore, trademarks cannot be counterfeited. Also, “commissioning an offence” is not grammatically correct.</p>	



Amendment 318
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos
Proposal for a directive
Article 14 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	Burden of proof <i>The burden of proof for Articles 3 to 14 shall lie solely on the prosecutor. No reversal of this burden, nor assumption of guilt shall be invoked</i>
Comments: This amendment is important to maintain basic elements of the rule of law in Europe. And minimise the risk of arbitrary measures being implemented as a result of this Directive	

Amendment 319: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 320

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán

Proposal for a directive

Article 15 – paragraph 1

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed, <i>nor shall it be necessary to establish a link to a specific terrorist offence or, insofar as the offences in Articles 9 to 11 are concerned, to specific offences related to terrorist activities.</i>	For an offence referred to in Article 4 to be punishable, it shall not be necessary that a terrorist offence be actually committed.
Comments: This amendment deletes unnecessary text.	



Amendment 321

Sophia in 't Veld, Kaja Kallas, Fredrick Federley

Proposal for a directive

Article 15 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed, <i>nor shall it be necessary to establish a link to a specific terrorist offence or, insofar as the offences in Articles 9 to 11 are concerned, to specific offences related to terrorist activities.</i>	For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed.
Comments: The deletion is positive but amendment 320 is more complete	



Amendment 322

Petr Ježek

Proposal for a directive
Article 15 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed, nor shall it be necessary to establish a link to a specific terrorist offence or, <i>insofar as the offences in Articles 9 to 11 are concerned</i> , to specific offences related to terrorist activities.	For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed.
Comments: The deletion is positive, but amendment 320 is more complete.	



Amendment 323
Sirpa Pietikäinen, Merja Kyllönen, Henna Virkkunen
Proposal for a directive
Article 15 – paragraph 1

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed, <i>nor shall it be necessary to establish a link to a specific terrorist offence or, insofar as the offences in Articles 9 to 11 are concerned, to specific offences related to terrorist activities.</i>	For an offence referred to in Article 4 and Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed.
Comments: The deletion is positive but amendment 320 is more complete.	

Amendment 324: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 325
Monika Hohlmeier
Proposal for a directive
Article 16 – paragraph 1


OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Articles 3 to 8 and 11 to 14 is made punishable.	1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Articles 3 to 8 and 11 to 14c is made punishable.
Comments: The paragraph is superfluous, so amendment 327 is preferable.	



Amendment 326
Caterina Chinnici, Birgit Sippel, Marju Lauristin, Juan Fernando López Aguilar, Kati Piri

Proposal for a directive
Article 16 – paragraph 1

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Articles 3 to 8 and 11 to 14 is made punishable.	1. Each Member State shall take the necessary measures to ensure that aiding or abetting an offence referred to in Articles 3, 6, 7 and 12 to 14 is made punishable.
Comments: The paragraph is superfluous, so amendment 327 is preferable.	

 **Amendment 327**
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán
Proposal for a directive
Article 16 – paragraph 2

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3to 14 is made punishable.	deleted
Comments: The paragraph is superfluous.	

 **Amendment 328**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 16 – paragraph 2

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3to 14 is made punishable.	deleted
Comments: This article is superfluous.	


 **Amendment 329**
Monika Hohlmeier
Proposal for a directive
Article 16 – paragraph 2

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3to 14 is made punishable.	2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3 to 14c is made punishable.
Comments: This article is superfluous.	

 **Amendment 330**
Caterina Chinnici, Birgit Sippel, Ana Gomes, Marju Lauristin, Juan Fernando López Aguilar, Kati Piri

Proposal for a directive
Article 16 – paragraph 2


OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3to 14 is made punishable.	2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3 to 14 is made punishable when it provokes the commission of, or the attempt to commit, one of those offences.
Comments: This article is superfluous.	

 **Amendment 331**
Michał Boni, Carlos Coelho
Proposal for a directive
Article 16 – paragraph 2

OPPOSE	
<i>Proposal for a directive</i>	<i>Amendment</i>
2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3to 14 is made punishable.	2. Each Member State shall take the necessary measures to ensure that inciting an offence referred to in Articles 3 to 14, which may be inferred from objective, factual circumstances, is made punishable.
Comments: This article is superfluous	

 **Amendment 332**
Caterina Chinnici, Birgit Sippel, Marju Lauristin, Juan Fernando López Aguilar, Kati Piri
Proposal for a directive
Article 16 – paragraph 3

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
3. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Articles 3, 6, 7, 9 and 11 to 14, with the exception of possession as provided for in point (f) of Article 3(2) and the offence referred to in point (i) of Article 3(2), is made punishable.	3. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Articles 3 and 12 to 14, with the exception of offences laid down in point (f) to (i) of Article 3(2), is made punishable.
Comments: This amendment limits the scope of the proposal, good when adopted together with AM 333.	

 **Amendment 333**
Cornelia Ernst, Barbara Spinelli
Proposal for a directive
Article 16 – paragraph 3

MIXED POSITION	
<i>Proposal for a directive</i>	<i>Amendment</i>
3. Each Member State shall take the	3. Each Member State shall take the

necessary measures to ensure that attempting to commit an offence referred to in Articles 3, 6, 7, 9 and 11 to 14, with the exception of possession as provided for in point (f) of Article 3(2) and the offence referred to in point (i) of Article 3(2), is made punishable.	necessary measures to ensure that attempting to commit an offence referred to in Articles 3, 6, 7 and 11 to 14, with the exception of possession as provided for in point (f) of Article 3(2) and the offence referred to in point (i) of Article 3(2), is made punishable.
Comments: This amendment limits the scope of the proposal, good when adopted together with AM 332.	

Amendment 334: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 335

Cornelia Ernst, Barbara Spinelli

Proposal for a directive

Article 16 – paragraph 3 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<i>3a. The acts in paragraphs 1 to 3 shall only be made punishable when in direct connection with a principal criminal act and when committed wilfully and with a clear and unequivocal intent to commit or meaningfully contribute to such an act.</i>
Comments: This amendment adds further limits to the proposal.	

Amendment 336: NO POSITION

Comment: This AM falls outside our scope of work.

Amendment 337: NO POSITION

Comment: This AM is unclear and refers to an Article 14c that does not appear to exist.

Amendment 338: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 339

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Article 17 a (new)

SUPPORT	
<i>Proposal for a directive</i>	<i>Amendment</i>
	<p style="text-align: center;"><i>Right to effective remedies</i></p> <p><i>1. Any person whose fundamental rights and freedoms have been violated in the exercise of counter-terrorism powers or the application of counter-terrorism law has a right to a speedy, effective and enforceable remedy.</i></p> <p><i>2. Member States' judicial authorities</i></p>

	<i>shall have the ultimate responsibility to ensure that this right is effective.</i>
Comments: This amendment adds limits to the proposal, which would reduce the risk of arbitrary implementation.	

Amendments 340-357: NO POSITION

Comments: These AMs fall outside our scope of work



Amendment 358

Michał Boni, Kinga Gál, Carlos Coelho

Proposal for a directive

Article 21 – paragraph 5 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	5a. Member States shall ensure cooperation and information sharing with the Member State that established its jurisdiction over the offences referred to in Articles 3 to 14 and 16 through established channels, including the Union agencies.
Comments: We regret the absence of any data protection and transparency safeguards.	

Amendments 359: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 360

Caterina Chinnici, Birgit Sippel, Ana Gomes, Tanja Fajon, Marju Lauristin, Emilian Pavel, Juan Fernando López Aguilar, Christine Revault D'Allonnes Bonnefoy, Liisa Jaakonsaari, Kati Piri, Miapetra Kumpula-Natri

Proposal for a directive

Article 21 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 21a</p> <p style="text-align: center;">Fundamental rights and principles</p> <p>1. This Directive shall not have the effect of altering the obligation to respect fundamental rights and principles enshrined in the Charter of Fundamental Rights of the European Union and Articles 2 and 6 of the Treaty on European Union, as well as in the European Convention for the Protection of Human Rights and Fundamental Freedoms and International humanitarian law, and shall be implemented and interpreted in accordance with these rights and principles.</p>

	<p>2. Any restriction to fundamental rights and freedoms must be provided for by the law and be necessary and proportionate for the aim pursued.</p> <p>3. Any person whose fundamental rights and freedoms have been violated in the exercise of counter-terrorism powers or the application of counter-terrorism law shall have the right to a speedy, effective and enforceable judicial remedy.</p>
<p>Comments: We support the objective of this AM, which is based on the wording used in Article 1(2) of the 2002 Framework Decision on Combating Terrorism, Article 2 of the 2008 Framework Decision on Combating Terrorism, Article 12 of the Convention on the Prevention of Terrorism of the Council of Europe and Article 8 of the Additional Protocol.</p>	



Amendment 361

Monika Hohlmeier

Proposal for a directive

Article 21 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 21a</p> <p style="text-align: center;">Exchange of information and cooperation concerning terrorist offences</p> <p style="text-align: center;">Each Member State shall take the necessary measures to ensure that any relevant information concerning any of the offences referred to in Articles 3 to 16, which affects or may affect another Member State, is effectively and timely transmitted to the competent authorities of that Member State established in accordance with Article 2 of Decision 2005/671/JHA and to the relevant Union agencies such as Europol and Eurojust and the relevant information systems maintained by them.</p>
<p>Comments: While we welcome the objective of this AM, "any relevant information" is too broad. Only information relevant concerning terrorist suspects or persons with criminal records should be shared.</p>	

Amendment 362: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 363

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 21 a (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 21a</p> <p style="text-align: center;">Exchange of information and judicial</p>

	<p style="text-align: center;">and police cooperation</p> <p>1. Member States shall undertake to share, for investigative purposes, relevant information and data they have obtained from EU-wide databases.</p> <p>2. Member States shall take the steps required in order to secure effective international judicial cooperation led by the judiciary and conventional police forces.</p>
<p>Comments: While we welcome the objective of this AM, we miss data protection safeguards.</p>	

Amendment 364: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 365

Gérard Deprez, Louis Michel, Nathalie Griesbeck, Petr Ježek, Maite Pagazaurtundúa Ruiz, Marielle de Sarnez
Proposal for a directive
Article 21 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<p><i>Amendment</i> Article 21a</p> <p>Exchanges of information and cooperation concerning terrorist offences</p> <p>1. Member States shall systematically flag up in the Schengen Information System any person who is suspected of having committed or who has been convicted of at least one of the offences referred to in Articles 3 to 14 of this Directive.</p> <p>2. Member States shall systematically forward to Europol details of any person who is suspected of having committed or who has been convicted of at least one of the offences referred to in Articles 3 to 14 of this Directive.</p>
<p>Comments: We support the objective of this AM.</p>	

Amendment 366: NO POSITION

Comment: This AM falls outside our scope of work.



Amendment 367

Sophia in 't Veld, Kaja Kallas, Fredrick Federley
Proposal for a directive
Article 21 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<p><i>Amendment</i> Article 21a</p> <p>Due process in Internet related measures</p> <p>Member States shall ensure that any measure taken, for the purpose of this</p>

	<i>Directive, to restrict the online distribution, or otherwise making available, of a message to the public is in line with the Charter of Fundamental Rights, is limited to what is necessary and proportionate and executed on the basis of a prior judicial authorisation.</i>
Comments: We support the objective of this AM.	



Amendment 368

Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite Pagazaurtundúa Ruiz, Nathalie Griesbeck
Proposal for a directive
Article 21 b (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 21 b</p> <p style="text-align: center;"><i>Exchange of information and cooperation in criminal matters</i></p> <p><i>1. Member states shall provide each other with the greatest measure of assistance in connection with criminal investigations proceedings in respect of the offences set forth in this directive, including via joint investigation teams. Such assistance shall include cooperation in obtaining evidence necessary for the proceedings. Any relevant information concerning any of the offences referred to in Articles 3 to 14 shall be effectively and timely transmitted to the relevant Union agencies such as Europol and Eurojust;</i></p> <p><i>2. Member States shall carry out their obligations under paragraph 1 in conformity with any treaties or other agreements on mutual legal assistance that may exist between them. In the absence of such treaties or agreements, Member states shall afford one another assistance in accordance with their domestic law;</i></p>
Comments: The value added by this amendment is unclear, as the specific obligations seem unclear and unenforceable.	



Amendment 369

Gérard Deprez, Louis Michel, Nathalie Griesbeck, Petr Ježek, Marielle de Sarnez, Sophia in 't Veld
Proposal for a directive
Article 21 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 21b PNR information exchanges Member States shall exchange all PNR data concerning persons who are suspected of having committed or who have been convicted of at least one of the offences referred to in Articles 3 to 14 of this Directive.
Comments: This would help fix one of the loopholes of the recently adopted EU PNR Directive.	

Amendment 370-371: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 372

Gérard Deprez, Louis Michel, Maite Pagazaurtundúa Ruiz

Proposal for a directive

Article 21 d (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 21d Measures to combat online radicalisation and incitement to terrorism Member States must work together with the Commission and internet service providers to develop a joint European strategy to combat online radicalisation and incitement to terrorism. That strategy must be regularly updated.
Comments: This AM falls outside the scope of the Directive (cf. Article 1 of the Draft Directive). On the one hand, the concept of radicalisation has not been defined (cf. Article 2 of the proposed Directive) and its use is likely to violate key principles of Criminal law, like the presumption of innocence and the principle of legality. On the other hand, the AM fails to take into account the importance of civil society.	



Amendment 373

Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite Pagazaurtundúa Ruiz, Nathalie Griesbeck

Proposal for a directive

Article 21 d (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 21d The convicting Member State shall timely store criminal record information on convictions handed down on its territory, including fingerprints, against a national of another Member States, in the ECRIS database. Member State shall ensure the confidentiality and integrity of criminal

	<p><i>record information transmitted to other Member States. Where appropriate, the Commission shall make a legislative proposal to amend this paragraph and align it with the future directive amending Council framework Decision 2009/315/JHA, as regards the ECRIS, and replacing Council Decision 2009/316/JHA.</i></p>
<p>Comments: While we acknowledge the objective of this AM, the AM should refer to storing limitations and introduce necessity and proportionality safeguards. Moreover, the last part of this amendment would need to be re-drafted.</p>	

Amendment 374-403: NO POSITION

Comment: These AMs fall outside our scope of work.



Amendment 404

Soraya Post, Sajjad Karim, Julie Ward, Afzal Khan

Proposal for a directive

Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23a Proportionality, necessity and fundamental rights</p> <p>1. In the implementation of this Directive, Member States shall ensure that criminalisation shall be proportionate to the legitimate aims pursued and necessary in a democratic society. This Directive shall not result in arbitrary decisions or in discriminatory policies and practices based on perceived nationality, religion, ethnic or racial origin.</p> <p>2. This Directive shall not have the effect of requiring Member States to take measures in contradiction of their obligation to respect fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.</p> <p>3. This Directive shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Articles 2 and 6 of the Treaty on European Union.</p>
<p>Comments: This amendment reaffirms Member States obligations vis-à-vis fundamental rights and freedoms. It is also creates active “shall ensure that” obligations for transposition, rather than passive (“does not require”) wording, which is very welcome.</p>	

**Amendment 405**

Laura Agea, Laura Ferrara, Ignazio Corrao, Fabio Massimo Castaldo

Proposal for a directive

Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 23a</p> <p><i>Fundamental rights and principles</i></p> <p><i>1. This Directive shall not have the effect of altering the obligation to uphold fundamental rights and fundamental legal principles as enshrined in the Charter of Fundamental Rights of the European Union and Articles 2 and 6 of the Treaty on European Union, as well as in the European Convention for the Protection of Human Rights and Fundamental Freedoms and international humanitarian law.</i></p> <p><i>2. Restrictions on fundamental rights and freedoms shall be provided for by law and shall be necessary and proportionate to the aim pursued.</i></p> <p><i>3. This Directive shall be implemented in accordance with the Charter of Fundamental Rights and the principles of EU law.</i></p> <p><i>4. Anyone whose fundamental rights and freedoms are infringed during anti-terrorism operations or in connection with the enforcement of anti-terrorism laws shall be entitled to a swift, effective and enforceable legal remedy.</i></p>
<p>Comments: This amendment reaffirms Member States obligations vis-à-vis fundamental rights and freedoms. A good compromise would be to add the elements of this amendment that do not already appear in amendment 404 into that text.</p>	

**Amendment 406**

Cornelia Ernst, Barbara Spinelli, Kostas Chrysogonos

Proposal for a directive

Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 23a</p> <p><i>Fundamental Rights and Principles</i></p> <p><i>1. This Directive shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in the Charter of Fundamental Rights of the European Union and Articles 2 and 6 of the Treaty on European Union, as well as</i></p>

	<p><i>in the European Convention for the Protection of Human Rights and Fundamental Freedoms and International humanitarian law.</i></p> <p><i>2. Restrictions to fundamental rights and freedoms must be provided for by law, be necessary and proportionate for the aim pursued. This Directive shall not result in arbitrary decisions or in discriminatory policies and practices based on perceived nationality, religion, ethnic or racial origin.</i></p> <p><i>3. This Directive shall be implemented in accordance with the Charter of Fundamental Rights and principles of Union law.</i></p>
<p>Comments: This amendment reaffirms Member States obligations regarding fundamental rights and freedoms.</p>	



Amendment 407
Monika Hohlmeier
Proposal for a directive
Article 23 a (new)

OPPOSE	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23a</p> <p style="text-align: center;"><i>Due diligence obligations in respect of certain business relationships</i></p> <p><i>1. The Member States shall ensure that obliged entities apply due diligence on suppliers and customers in accordance in the following circumstances:</i></p> <p><i>a) when establishing a business relationship with a supplier or customer involving the trade of designated goods within the meaning of paragraph 3,</i></p> <p><i>b) in the case of a transaction with a supplier or customer being carried out outside an existing business relationship involving the trade of designated goods within the meaning of paragraph 3,</i></p> <p><i>c) if there are facts or circumstances suggesting engagement or intent to engage in illicit trade involving the traded designated goods within the meaning of paragraph 3 or usage of or intent to use designated goods within the meaning of paragraph 3 in manufacturing of illicit goods,</i></p> <p><i>d) when there are serious doubts about the veracity or adequacy of previously obtained supplier or customer</i></p>

identification data.

Points (a) and (b) of the first subparagraph shall not apply insofar as the obliged entities trade with consumers acting as end-customers within the meaning of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011.

2. For the purposes of this Article, obliged entities are deemed to be natural or legal persons in so far as they trade in designated goods within the meaning of paragraph 3 in the exercise of their economic or professional activities.

3. The following goods whose trading is considered to be vulnerable to direct or indirect terrorist financing, shall be deemed to be designated goods within the meaning of this Article:

a) oil, oil products, modular refineries and related material, arms, nuclear material, precious metals and minerals such as gold, silver, copper and diamonds, as well as grain and livestock,

b) machinery, electronics, tobacco products and pharmaceuticals, including the raw materials needed to manufacture (including cellulose acetate), materials, packaging and containers bearing a designation of origin and certificates of authenticity,

c) cultural artefacts and other items of archaeological, historical, cultural and religious importance, or rare scientific value, as well as ivory and protected species.

Member States shall adopt, on the basis of a risk-based and proportionate approach and within the limits of Union law, national legislation ensuring that the scope of application of this Article is extended to other goods to the extent that it is highly likely that these other goods are used to directly or indirectly finance terrorism. In the event that a Member State extends the scope of application to other goods, it shall duly notify the Commission thereof.

4. The extent of the due diligence obligations shall be determined on a risk-sensitive basis depending on the relevant contracting party, the relevant business

	<p><i>relationship or transaction and shall comprise identifying the contracting party, verifying the contracting party's identity.</i></p> <p><i>5. Each Member State shall establish a central reporting unit in order to prevent, detect and combat illicit trade involving designated goods and manufacturing of illicit goods by using designated goods. Member States shall ensure that their competent authorities cooperate to the greatest extent possible with one another and with the national authorities of other Member States along with European authorities for combating illicit trade involving designated goods and manufacturing of illicit goods by using designated goods.</i></p>
<p>Comments: The language of this amendment is too broad and vague. Terms such as “serious doubts”, “considered to be vulnerable”, “highly likely” fail to provide certainty. This amendment must be re-written and probably divided into further amendments as it currently both covers the trade in illicit goods not linked to terrorism and the financing of terrorism.</p>	

+ Amendment 408
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23a</p> <p style="text-align: center;">Proportionality, necessity and fundamental rights</p> <p>1. In the implementation of this Directive, Member States shall ensure that criminalisation is provided for by law, proportionate to the legitimate aims pursued and necessary in a democratic society and shall exclude any form of arbitrariness and discrimination. This Directive shall not result in arbitrary decisions or in discriminatory policies and practices based on perceived nationality, religion, ethnic or racial origin.</p> <p>2. This Directive shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in the Charter of Fundamental Rights of the European Union as well as in the European Convention for the Protection of Human Rights and Fundamental</p>

	<p><i>Freedoms, the International Covenant on Civil and Political Rights and other obligations under international humanitarian law.</i></p> <p><i>3. This Directive shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Articles 2 and 6 of the Treaty on European Union.</i></p>
<p>Comments: This amendment reaffirms Member States obligations regarding fundamental rights and freedoms. .</p>	

+ Amendment 409
Sophia in 't Veld, Kaja Kallas, Fredrick Federley
Proposal for a directive
Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23a</p> <p style="text-align: center;">Fundamental Rights and Principles</p> <p><i>1. This Directive is without prejudice to fundamental rights and fundamental legal principles as enshrined in the Charter of Fundamental Rights of the European Union and Articles 2 and 6 of the Treaty on European Union, as well as in the European Convention for the Protection of Human Rights and Fundamental Freedoms and International humanitarian law.</i></p> <p><i>2. Restrictions to fundamental rights and freedoms must be provided for by law, and must be necessary and proportionate for the aim pursued.</i></p> <p><i>3. This Directive shall be implemented in full accordance with the Charter of Fundamental Rights and principles of Union law.</i></p>
<p>Comments: This amendment reaffirms Member States obligations regarding fundamental rights and freedoms.</p>	

+ Amendment 410
Michał Boni, Carlos Coelho
Proposal for a directive
Article 23 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23a</p> <p style="text-align: center;">Fundamental rights and non-discrimination</p> <p><i>1. This Directive shall be implemented without prejudice to and in respect with</i></p>

	<p><i>fundamental rights and freedoms as enshrined in the Charter of the Fundamental Rights of the European Union and Articles 2 and 6 of the Treaty on European Union.</i></p> <p><i>2. This Directive shall be implemented with respect to principle of proportionality and shall exclude any form of arbitrariness and discrimination.</i></p>
<p>Comments: This amendment reaffirms Member States obligations regarding fundamental rights and freedoms.</p>	

+ **Amendment 411**
Laura Agea, Laura Ferrara, Ignazio Corrao
Proposal for a directive
Article 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23b</p> <p style="text-align: center;">Freedom of expression</p> <p><i>1. Nothing in this Directive may be interpreted as being intended to reduce or restrict the dissemination of information for the purpose of expressing an opinion. The public expression of radical, political or controversial views on sensitive political questions, including terrorism, falls outside the scope of this Directive and, in particular, of the definition of public provocation to commit terrorist offences.</i></p> <p><i>2. This Directive shall not have the effect of requiring Member States to take measures in contradiction of fundamental principles relating to freedom of expression, in particular freedom of the press and freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.</i></p>
<p>Comments: This amendment brings clarity regarding the effects of this Directive.</p>	

+ **Amendment 412**
Soraya Post, Sajjad Karim, Julie Ward, Afzal Khan
Proposal for a directive
Article 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23b

	<p>Non-discrimination</p> <p><i>This Directive shall not have the effect of requiring Member States to take measures which could result in direct or indirect discrimination or which would be based on religious practice and ethnic criteria.</i></p>
<p>Comments: This amendment brings clarity regarding the effects of this Directive.</p>	

+ Amendment 413
Cornelia Ernst, Kostas Chrysogonos
Proposal for a directive
Article 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 23b</p> <p><i>Emergency situations and fundamental rights</i></p> <p><i>In time of war or other public emergency threatening the life of the nation, Member States may take measures to derogate certain rights, in line with Union and international law. Such circumstances do not relieve the authorities from demonstrating that the measures undertaken are applied solely for the purpose of combating terrorism and are directly related to the specific objective of combating terrorism.</i></p>
<p>Comments: This amendment brings important clarification regarding Member States's obligation in case of emergency situations.</p>	

+ Amendment 414
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 23b</p> <p><i>Fundamental principles relating to freedom of expression</i></p> <p><i>1. Nothing in this Directive may be interpreted as being intended to reduce or restrict the dissemination of information for the expression of an opinion. The expression of radical, polemical or controversial views in the public debate on sensitive political questions, including terrorism, falls outside the scope of this Directive and, in particular, of the definition of public provocation to commit a terrorist offence.</i></p>

	<i>2. This Directive shall not have the effect of requiring Member States to take measures in contradiction of fundamental principles relating to freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.</i>
Comments: This amendment brings clarity regarding the effects of this Directive.	



Amendment 415
Michał Boni, Carlos Coelho
Proposal for a directive
Article 23 b (new)

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23b</p> <p style="text-align: center;"><i>Cooperation and information exchange</i></p> <p><i>1. Member States shall ensure introducing an obligation to cooperate and to exchange information with other Member States regarding the offences referred to in Articles 3 to 14 and Article 16.</i></p> <p><i>2. Member State shall ensure introducing an obligation to cooperate with and to transmit information regarding the offences referred to in Articles 3 to 14 and Article 16 relevant for other Member States via the Union agencies, i.e. Europol and Eurojust, recognizing their leading role in the coordination process.</i></p>
Comments: We support the objective of this amendment which should be improved by adding a specific reference to EU data protection laws. Clarity is also needed regarding the evidence base and ongoing assessment of any such measures, as the amount and nature of data to be exchanged is very likely to change over time.	



Amendment 416
Sophia in 't Veld, Fredrick Federley
Proposal for a directive
Article 23 b (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p style="text-align: center;">Article 23b</p> <p><i>Member States shall ensure that any person whose fundamental rights and freedoms have been violated in the</i></p>

	<i>exercise of counter-terrorism powers or the application of counter-terrorism law has a right to a speedy, effective and enforceable remedy.</i>
Comments: This amendments strengthens citizens' right to remedy.	

+ Amendment 417
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 23 c (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23c Non-discrimination <i>This Directive shall not have the effect of requiring Member States to take measures which could result in direct or indirect discrimination or which would be based on religious practice and ethnic criteria.</i>
Comments: This amendment brings clarity regarding the effects of this Directive.	

+ Amendment 418
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos
Proposal for a directive
Article 23 c (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23c Right to effective remedies <i>1. Any person whose fundamental rights and freedoms have been violated in the exercise of counter-terrorism powers or the application of counter-terrorism law has a right to a speedy, effective and enforceable remedy.</i> <i>2. Member States' judicial authorities shall have the ultimate responsibility to ensure that this right is effective.</i>
Comments: This amendments strengthen victims' right to remedy.	

+ Amendment 419
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 23 d (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23d Emergency situations and fundamental rights <i>In time of war or other public emergency threatening the life of the nation, Member</i>

	<i>States may take measures to derogate from certain rights, in line with Union and international law. Such circumstances do not relieve the authorities from demonstrating that the measures undertaken are applied solely for the purpose of combating terrorism and are directly related to the specific objective of combating terrorism.</i>
Comments: This amendment brings important clarification regarding Member States' obligation in case of emergency situation.	



Amendment 420

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos

Proposal for a directive

Article 23 d (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23d
	Non-discrimination
	<i>This Directive shall not have the effect of requiring Member States to take measures which could result in direct or indirect discrimination or which would be based on religious practice and ethnic criteria. The Commission shall regularly assess the implementation of the Directive with regard to any potential disproportionate impact on groups of the population and remedial procedures to correct discriminatory practices and report their findings to the European Parliament and Council.</i>
Comments: This amendment brings clarity regarding the effects of this Directive and on its implementation.	



Amendment 421

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán

Proposal for a directive

Article 23 e (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 23e
	Freedom of expression
	<i>1. Nothing in this Directive may be interpreted as being intended to reduce or restrict the dissemination of information for the expression of an opinion. The expression of radical, polemical or controversial views in the public debate on sensitive political questions, including terrorism, falls outside the scope of this</i>

	<p><i>Directive and, in particular, of the definition of public provocation to commit a terrorist offence.</i></p> <p><i>2. This Directive shall not have the effect to take measures in contradiction of fundamental principles relating to freedom of expression, including freedom of the press and the freedom of expression resulting from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.</i></p>
<p>Comments: This amendment brings clarity regarding the effects of this Directive.</p>	

+ Amendment 422
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 25 – title

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Transposition	Transposition and review mechanisms by Member States
<p>Comments: The addition of review mechanisms can have a positive impact on the Directive's implementation.</p>	

+ Amendment 423
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán
Proposal for a directive
Article 25 – title

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Transposition	Transposition and review mechanisms by Member States
<p>Comments: The addition of review mechanisms can have a positive impact on the Directive's implementation.</p>	


+ Amendment 424
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 25 – paragraph 2

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.
<p>Comments: This amendment clarifies the Commission's original proposal.</p>	


+ Amendment 425
Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive
Article 25 – paragraph 2 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>2a. Member States shall conduct annual independent reviews of and reporting on the exercise of powers under the laws falling within the scope of this Directive.</i>
Comments: The proposed provision would improve implementation of the Directive and provide avenues for remedy in case Member States are not respecting their fundamental rights obligations.	

 **Amendment 426**
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán
Proposal for a directive
Article 25 – paragraph 2 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>2a. Member States shall conduct annual independent reviews of and reporting on the exercise of powers under the laws falling within the scope of this Directive.</i>
Comments: The proposed provision would improve implementation of the Directive and provide avenues for remedy in case Member States are not respecting their fundamental rights obligations.	

 **Amendment 427**
Timothy Kirkhope, Jussi Halla-aho, Angel Dzhambazki, Monica Macovei, Geoffrey Van Orden, Branislav Škripek
Proposal for a directive
Article 26 – paragraph 1


MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.	1. The Commission shall, by [12 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.
Comments: Transposition and implementation by 24 months might be unrealistic. Also, reflection is needed on the implementation of such proposals. Under the Data Retention Directive, Member States were obliged to produce statistics, but failed to do so, while the European Commission's implementation report was nine months late and of low quality.	

 **Amendment 428**
Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite Pagazaurtundúa Ruiz, Nathalie Griesbeck
Proposal for a directive
Article 26 – paragraph 1

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.	1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive and of the effectiveness of the actions that member state have taken in terms of achieving the objective of this directive. On the basis of this evaluation, the Commission shall decide on the appropriate follow-up;
Comments: The proposed addition is positive for reporting purposes.	

 **Amendment 429**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 26 – paragraph 1

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.	1. The Commission shall, by [24 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Regular evaluation of the Directive implementation should include assessment of a potential disproportionate impact of measures on groups of the population, and remedial procedures to correct discriminatory practices.
Comments: The proposed addition is positive for evaluation purposes.	

 **Amendment 430**
Teresa Jiménez-Becerril Barrio
Proposal for a directive
Article 26 – paragraph 2

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.	2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism, and protecting and assisting victims of terrorism. The Commission shall take into account the information provided by

	Member States under Decision 2005/671/JHA.
Comments: The proposed addition is positive and should be complemented by a shorter deadline for reporting.	

 **Amendment 431**
Eva Joly, Jan Philipp Albrecht, Jean Lambert
Proposal for a directive
Article 26 – paragraph 2

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.	2. The Commission shall, by [12 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the added value of this Directive on combating terrorism and its impact on fundamental rights and freedoms and the rule of law. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA and any other relevant information regarding the exercise of powers under counter-terrorism laws related to the transposition and implementation of this Directive.
Comments: The amendment brings positive changes to the Commission's proposal for efficient reporting.	

 **Amendment 432**
Petr Ježek, Louis Michel, Gérard Deprez, Angelika Mlinar, Cecilia Wikström, Maite Pagazaurtundúa Ruiz, Nathalie Griesbeck
Proposal for a directive
Article 26 – paragraph 2

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.	2. The Commission shall, by [48 months after the deadline for implementation of this Directive], and every two years, submit a report to the European Parliament and to the Council, assessing the impact on fundamental rights, proportionality, the effectiveness and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.
Comments: Positive addition is being suggested on the evaluation of the impact of the Directive on funamental rights, however, the deadline for reporting should be significantly reduced.	



Amendment 433

Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán

Proposal for a directive

Article 26 – paragraph 2

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.	2. The Commission shall, by [12 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the added value of this Directive on combating terrorism and its impact on fundamental rights and freedoms and the rule of law . The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA and any other relevant information regarding the exercise of powers under counter-terrorism laws related to the transposition and implementation of this Directive .
Comments: The amendment brings positive changes to the Commission's proposal for efficient reporting.	



Amendment 434

Michał Boni, Carlos Coelho

Proposal for a directive

Article 26 – paragraph 2

MIXED POSITION	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism. The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.	2. The Commission shall, by [48 months after the deadline for implementation of this Directive], submit a report to the European Parliament and to the Council, assessing the impact and added value of this Directive on combating terrorism and its impact on fundamental rights and freedoms . The Commission shall take into account the information provided by Member States under Decision 2005/671/JHA.
Comments: Positive addition is being suggested on the evaluation of the impact of the Directive on fundamental rights, however, the deadline for reporting should be significantly reduced.	




Amendment 435

Eva Joly, Jan Philipp Albrecht, Jean Lambert

Proposal for a directive

Article 26 – paragraph 2 a (new)


SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	2a. In light of the independent reports of the European Commission, Member States shall conduct parliamentary periodic reviews.
Comments: This amendment strengthens the efficiency of reporting mechanism and the overall evaluation process of the Directive.	

-  **Amendment 436**
Soraya Post, Sajjad Karim, Julie Ward, Afzal Khan
Proposal for a directive
Article 26 – paragraph 2 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	2a. The Commission shall regularly assess the implementation of the Directive with regard to any potential disproportionate impact on groups of the population and remedial procedures to correct discriminatory practices and report their findings to the European Parliament and Council.
Comments: This amendment introduces positive measures to protect users' right to an effective remedy and create further safeguards against discrimination.	

-  **Amendment 437**
Cornelia Ernst, Barbara Spinelli, Marina Albiol Guzmán, Kostas Chrysogonos
Proposal for a directive
Article 26 – paragraph 2 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	2a. In light of the independent reports of the European Commission, Member States shall conduct parliamentary periodic reviews.
Comments: This amendment strengthens the efficiency of reporting mechanism and the overall evaluation process of the Directive.	

-  **Amendment 438**
Sophia in 't Veld, Fredrick Federley
Proposal for a directive
Article 26 a (new)

SUPPORT	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 26a Sunset Clause This Directive shall expire after every five years, unless the Directive is prolonged for another five years by the Council and

	<i>the Parliament upon a proposal of the Commission.</i>
Comments: We strongly support the objective of this amendment to reassess the need of this Directive in five years. However, we would have preferred for the extension of the Directive for an another five year period to only be possible after a full review mechanism and evaluation of the functioning of the Directive, involving the Commission and Parliament.	