

EDRi recommendations: 5th trilogue - Terrorism Directive

*** Article 14a:**

- changing "possible" to "feasible" is not a good idea. When you refer to "possible", you must have had to make an effort. "Feasible" is an abstract term, where you don't need to try.

*** Recital 7b:**

- changing "terrorist content" for content that constitutes a terrorist offence is better. It narrows down the scope. Then, it's important to get Article 5 right.

- Deleting "or other" is good news", but this Directive is asking for non-judicial action. This is unacceptable and not in line with predictable law-making. We are not sure how this fits with the legal basis of the instrument.

*** Recital 7(c) - E-commerce Directive:** the paragraph was ok before. With the new changes, the recital is narrowing down the application of the E-commerce Directive. You cannot change a horizontal instrument (the e-commerce Directive) via a vertical instrument (the Terrorism Directive). The optional nature of the blocking has disappeared and we have no idea what kind of blocking is being proposed, which makes it impossible to do a proportionality assessment or an assessment as a harmonising measure.

*** Article 16(2)** should not duplicate Article 5. The Parliament had asked not to include Article 5 in this Article. They both overlap. Article 16(2) enlarges the scope for potentially punishing innocent people.

*** Article 26:** this Directive was proposed without an impact assessment. Some of the measures being proposed are in breach of the Charter and even contradict the impact assessment of the European Commission when reviewing the Framework Decision 2002 (cf. on blocking and removal of content). An assessment of the proportionality and effectiveness of the measures applied by the Member States is a key.