

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the protection of the Internal Market and the financial interests of the European Union against extremism (Directive on anti-extremism)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION –

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114, 153 and 325 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Committee of the Regions ⁽²⁾,

After consulting the Court of Auditors ⁽³⁾,

Acting in accordance with the ordinary legislative procedure ⁽⁴⁾,

Whereas:

- (1) The protection of the fundamental rights and fundamental freedoms, guaranteed in the Charter of Fundamental Rights of the European Union (‘Charter’) and the Treaty on the Functioning of the European Union (TFEU) is the cornerstone of the internal market. Adhering to minimum ethical standards is considered an important reason for economic success of western democracies. Violent extremism hinders and prevents sustainable development and jeopardises development and prosperity, that has been achieved in recent decades ⁽⁵⁾. An essential prerequisite for the functioning of economic relations is the protection of expectations, thus an important precondition for an effective internal market.
- (2) Preventing the support of extremism is necessary to ensure a good functioning of the internal market, impressively demonstrated by the latest developments, particularly the refugee crisis, the British vote to withdraw from the European Union or the threat of a breakup of the North American Free Trade Area. The principles and provisions of this Directive on preventing the support of extremism, should ensure that mutual trust is maintained and cannot be eradicated by natural or legal persons, companies, non-profit or other bodies supporting extremism. To this end, the public perception and

¹ [reference to be added].

² [reference to be added].

³ [reference to be added].

⁴ [reference to be added].

⁵ United Nations General Assembly ‘Plan of Action to Prevent Violent Extremism’ ([UNGA \(2015\) A/70/674](#)).

awareness regarding the vital role of fundamental rights and the fundamental freedoms should be raised. At the same time, it ought to be ensured that persons and institutions, supplying extremism, should be excluded from benefits, granted by public resources and should further give a transparent description of their source of financing. Due to the particularly dramatic negative effects of extremism in the field of education and the world of work, special protective measures for workers and family members should be established. Thus, this Directive should contribute to the completion of an area of freedom, security and justice and an economic union, to the economic and social progress, to the strengthening and integration of the national economies within the internal market as well as to the wellbeing of individuals. This Directive has long term effects, as far as it strengthens trust in the fundamental rights and fundamental freedoms enshrined in the Treaties, because due to its protection of the trust, which is necessary for sustainable economic action, the functioning of the internal market will also be ensured in the future. This Directive does not cover violent extremism, but its preparations, meaning the support of extremism, which does not necessarily need to lead to violent extremism, but due to its negative effects on the world of work and education, may lead to negative effects on the functioning of the internal market especially in the future.

- (3) According to the unanimous decision by the Council ⁽⁶⁾, the application of the ordinary legislative procedure is permitted for all the provisions, contained in this Directive, particularly the provisions concerning measures in the world of work.
- (4) The Communication from the Commission of 14 June 2016 ‘Supporting the prevention of radicalisation leading to violent extremism’ refers to ideological and religious factors as one of several possible driving forces for radicalisation, meaning the development process to become an extremist. Recruiters and extremist preachers learned to skilfully use feelings of resentment and to misuse religious narratives and symbols to justify acts of violence. At the same time religion can play a crucial role to prevent or face radicalisation. It binds communities, strengthens the sense of belonging and can provide positive guidance to people.
- (5) The Union law protects the freedom of thought, conscience and religion in Article 10 of the Charter. This also includes the right to change religion or to practise his or her religion. Article 14(3) of the Charter protects in accordance with national laws the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions. Article 21 of the Charter prohibits any discrimination, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Article 22 of the Charter obliges the European Union to respect cultural, religious and linguistic diversity. According to Article 54 of the Charter nothing in the Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in the Charter or at their limitation to a greater extent that is provided for in the Charter. Thus, especially the discrimination, prohibited by Article 21 cannot be justified with other rights and freedoms of the Charter, such as the freedom of thought, conscience and religion, protected by Article 10 of the Charter, the freedom of expression and information, protected by Article 11 of the

⁶ [reference to be added].

Charter or the freedom of the arts and sciences, protected by Article 13. Such infringements would at least require an additional intersubjectively verifiable and fact-based justification. The aforementioned freedoms allow for the absence of being coerced by others. Therefore and due to reciprocity, they cannot legitimate to coerce others, because then, the – protected – freedoms of the others would be infringed. Having said this, religious and ideological matters are not worthy of protection as far as they are used to justify the infringement of other fundamental rights and fundamental freedoms of the Union, especially when these freedoms are (mis)used to legitimate discrimination.

- (6) According to the Court of Justice an internal rule prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination within the meaning of Article 2(2)(b) of Directive 2000/78/EC of the Council⁽⁷⁾, provided that this ban is not founded on stereotypes or prejudice against one or more particular religions or against religious beliefs in general. Private undertakings are entitled to impose a policy of strict political, philosophical and religious neutrality, and to introduce obligations for their employees to meet these requirements of professional neutrality.
- (7) The purpose of the Directive is to not protect those who try to compromise the protection of the rights and freedoms, ensured in the Charter. By doing so, the factual implementation of the prohibition of abusing rights, laid down in Article 54 of the Charter, should be improved to protect the internal market.
- (8) According to the Regulation (EU) 2016/679 of the European Parliament and of the Council⁽⁸⁾ the processing of personal data should be designed to serve mankind. The right to the protection of personal data cannot claim for full validity; it has to be evaluated in view of its social function and must be balanced with other fundamental rights in accordance with the principle of proportionality. The list of terror organisations⁽⁹⁾, established in accordance with the procedure of the Council Regulation (EC) No 2580/2001⁽¹⁰⁾, demonstrates, that special measures in a democratic society are necessary to defence particular threats. The disclosure provided for in this Directive does not have the same severe consequences as the registration with the quoted terror list has. Nevertheless, registration with the warning list can lead to an intrusion of data protection rights of individuals. It should be noted, that Regulation (EU) 2016/679 only applies to natural persons, not to legal persons or other bodies. An instrument comparable to the warning list, is the list of the US Office of Foreign Assets Control (OFAC). In contrast to the OFAC-list, the warning list, proposed in this Directive, provides for the publication of reasons, why entities according to Article 4(3) of this Directive have been included in the warning list. Additionally, proceedings under the rule of law must have been concluded and the

⁷ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ([OJ L 303, 2.12.2000, p. 16](#)).

⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement on such data, and repealing Directive 95/46/EC ([OJ L 119, 4.5.2016, p. 1](#)).

⁹ Council Decision (CFSP) 2017/154 of 27 January 2017 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2016/1136 ([OJ L 23, 28.1.2017, p. 21](#)).

¹⁰ Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ([OJ L 344, 28.12.2001, p. 70](#)).

path of conversion was rejected, for instance in a specific way of disassociation from other supporters of extremism. As this Directive aims at ensuring the functioning of the internal market also in the future, no provision for criminal penalties, imposed by a court, are provided. As solely economic aspects in the early stage of extremist activities get addressed and a proportional state control is provided for that, less intrusive measures are available. Refraining from such control would not have a positive effect on the European Union, because it cannot be ruled out, that the increasingly eroding solidarity does not reach a higher escalation level. Furthermore, without that Directive, the public confidence – which is needed for maintaining the internal market – in institutions and the problem-solving skills of the European Union and its Member States will be further diminished. The guarantee of the rule of law, the possibility of conversion by a specific disassociation, the absence of criminal measures and measures, that do not respect the presumption of innocence – like an unfounded monitoring of telecommunications systems that can easily be avoided – or the requirement of intent, are appropriate safeguards for the adherence to the principle of proportionality. Complying with the principle of proportionality is regarded the backbone of this Directive. Nonetheless, the necessity and especially the right timing for the needed measures may not be overlooked. The crisis of the European Union in the past month and years demonstrate, that the functioning of the internal market and the Union's freedoms cannot be taken for granted, but have to be cultivated and protected on a daily basis. To ensure the functioning of the internal market also in the future, the support of extremism, regardless of its ideological or religious considerations, has to be prevented effectively throughout the European Union, by a proportionate and effective approach.

- (9) Experiences of unsuccessful national developments, like the atrocities during the times of National Socialism or the dissolution of democratic structures in other parts of the world, demonstrate, that the adherence to fundamental rights and fundamental freedoms plays a crucial role for economic development and general prosperity. Those who do not keep a distance to criminal offences according to Article 3 of the Regulation (EU) 2016/794 of the European Parliament and of the Council ⁽¹¹⁾ or even affirm them or support them in a publicly perceptible way, should not take advantages of national privileges. Particularly, those criminal offences, laid down in Annex I of the Regulation (EU) 2016/794, are of such a fundamental importance for the functioning of the internal market and the European Union in toto, so that any kind of support has to be interdicted. It makes no difference whether the support concerns material assistance or any other publicly perceptible moral support, like statements expressed on websites, or solidarization, for example by the use of relevant labelling. It is irrelevant whether a language of the European Union is used or not for supporting extremism or if the support is given by actions in the narrower sense, words or pictures. Any kind of support can lay the foundation for future threats of the internal market and the European Union. For that reason, the support of extremism should be prevented, at least any support by the European Union or the Member States should be withdrawn. If the support of those criminal offences, laid down in Annex I of the Regulation (EU) 2016/794, still does not qualify for being a crime, the Member States

¹¹ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA ([OJ L 135, 24.5.2016, p. 53](#)).

at least have to ensure, that those supporters of extremism neither enjoy national privileges nor privileges under international law. To ensure that, the Member States have to adapt their national jurisdiction and according to Article 351 TFEU – in the case of incompatibilities with their international law obligations concerning this Directive, like, if supporters of extremism get immunity under international law – and adopt all appropriate measures, in order to implement this Directive. The obligation according to Article 351(2) TFEU, to take all appropriate steps to eliminate the incompatibilities established, can include the termination of existing international agreements. On a national level, privileged donations or bureaucratic relieves could for example be considered as privileges, which must be withdrawn from supporters of extremism. This Directive just covers certain questions, that deal with problems for the functioning of the internal market and therefore complies with the principle of solidarity according to Article 5 of the Treaty on European Union ('TEU') at all levels.

- (10) These developments require a legislative framework, that is strong, coherent and clearly enforceable to protect the legal bases, that are necessary for the functioning of the internal market, as it is of great importance to build a solid basis of trust, which is in particular required by the knowledge-based economy, to be able to further grow within the internal market. These considerations concerning the protection of trust, especially of trust of consumers, have already resulted in the adoption of numerous legal acts, inter alia the Directive 2000/31/EC of the European Parliament and of the Council ⁽¹²⁾ or the Regulation (EU) No. 910/2014 of the European Parliament and of the Council ⁽¹³⁾. Natural persons should not be left with uncertainty about the extent to which actors operating within the European Union, respect fundamental rights, principles and freedoms or reject them intentionally or disregard them or force others to limit or abandon these rights, principles and freedoms. The negative impacts of destructing these rights, principles and freedoms as well as limiting them to a greater extent than foreseen in the Charter, also affect companies and can result in massive economic losses, due to the destruction of trust throughout the European Union. From legal and practical point of view, natural persons, businesses and the state sector should have more information and consequently more certainty at their disposal, regarding the ones, who respect the legal grounds of the internal market and act accordingly and the ones, who undermine the legal fundament of the internal market.
- (11) The phenomena observed, establish a serious threat to the area of freedom, security and justice and in particular to the functioning of the internal market.
- (12) Without a coordination at Union level, it is likely that supporters of extremism take advantage of the fundamental rights and fundamental freedoms of the Union, in order to sustainably limit fundamental rights and fundamental freedoms, at least factual, and negatively affect the functioning of the internal market in the long term. Differences in the level of protection for the rights and freedoms of natural persons in the Member States, especially regarding the balancing with other fundamental rights, such as the freedom of thought, conscience and religion, according to Article 10 of the Charter,

¹² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ([OJ L 178, 17.7.2000, p. 1](#)).

¹³ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC ([OJ L 257, 28.8.2014, p. 73](#)).

and the freedom of expression and information, according to Article 11 of the Charter, can undermine the level of protection across the European Union, can result in a degradation of the necessary trust, especially for economic actions, and finally in obstacles to the internal market. Therefore, these differences in the level of protection could be an obstacle for the economic activities across the Union, distort competition and prevent the authorities from fulfilling their obligations set out in Union law. In the transposition and application of the Directive the risk of those differences is lower. As the maintenance of a trustful atmosphere, created by genuine respect for fundamental rights and fundamental freedoms, is an indispensable condition for the functioning of the internal market, differences in the level of protection may be reduced to a minimum and a uniform protection of the highest level has to be achieved.

- (13) This Directive does not intend to implement third-party effects of the fundamental rights. However, those, who substantially contribute to the base of the European Union due to their practices, compliant with fundamental rights, especially to the internal market, should be positively highlighted and those, who intentionally work against the fundamental values of the European Union, should not be supported in doing so. Many years ago, Article 54 of the Charter has already taken a clear, strategic decision regarding this matter, following Article 17 of the European Convention on Human Rights. For example, the freedom of sciences according to Article 13 of the Charter and the Directive 2010/63/EU of the European Parliament and of the Council⁽¹⁴⁾ demonstrate, that even science, which is of topmost importance, is subject to strict rules regarding the use of animals for experimental purposes. This is even more the case, if the intended purpose is a non-scientific purpose, as science plays an extremely significant role in tackling requirements in the future, especially economic requirements in the future, and when human welfare instead of animal wellbeing is being addressed. Both requirements apply to this Directive, which is based on the OECD's concept of research and science. An intersubjectively verifiable and fact-based approach increases the predictability of decisions both at the legal as well as the economic level and allows for a careful use of resources, a greater level of trust, because citizens can better understand decisions of the public sector, and overall a more human and economic approach.
- (14) The Directive 2013/34/EU of the European Parliament and of the Council⁽¹⁵⁾ as amended by Directive 2014/95/EU of the European Parliament and of the Council⁽¹⁶⁾ provides for the protection of shareholders, participants and third parties by coordination of national provisions concerning the structure and the content of annual financial statements and management reports, the measurement bases used therein and their publication. Considering the financial relevance of the non-profit sector of the Union⁽¹⁷⁾ as well as the fact that non-profit organisations are, despite their important

¹⁴ Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes ([OJ L 276, 20.10.2010, p. 33](#)).

¹⁵ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC ([OJ L 182, 29.6.2013, p. 19](#)).

¹⁶ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups ([OJ L 330, 15.11.2014, p. 1](#)).

¹⁷ Recital A of the Interim Report of the European Parliament of 18 June 2013 on the proposal for a Council regulation on the Statute for a European Foundation (FE) ([A7-0223/2013](#)).

functionality taking up in all democratic societies, prone to misuse⁽¹⁸⁾, a basic disclosure obligation – even for non-profit organisations – should be established.

- (15) According to the settled case-law of the Court of Justice, the principle of proportionality, that is part of the general principles of Union law, requires, that the means used by a Union legal act need to be appropriate for achieving the pursued goal and must not go beyond what is necessary to attain it. For that reason, it has to be examined within the context of a proper balance of the various interests concerned, whether less intrusive measures would be sufficient in order to achieve the objective proposed, which is the active protection of the fundamental rights and the fundamental freedoms of natural persons for ensuring the functioning of the internal market also in the future. Even if the goal of transparency not necessarily takes precedence over the right to the protection of personal data, although substantial economic interests are concerned, the threat it poses for the functioning of the internal market has already become manifest due to the request of the United Kingdom pursuant to Article 50 TEU. Those who support extremism today, pave the way for violence tomorrow. Therefore, the Union has to convince its citizens of its ability to undermine the basis of terrorist acts and serious crimes, to prevent attacks from happening. As long as the European Union cannot regain the trust of its citizens in its problem-solving competence, further requests pursuant to Article 50 TEU and a breakup of the internal market are likely.
- (16) Even though supporting extremism does not necessarily lead to terrorist acts or serious crimes, such a support results, already during its unfinished path to serious crime, in substantial and especially negative consequences for the internal market. Those who exclude others from employment, due to extremist viewpoints, pose a serious harm to the functioning of the internal market, as due to the implementation of extremism a large proportion of the Union would get lost. Regarding discriminations on grounds of sex, for example, half of all people, residing within the internal market, would be affected.
- (17) To avoid any kind of extremism, effective monitoring under rule of law should be provided before terrorist acts or acts of serious crime could be committed. Such means of effective monitoring under rule of law, may be with an increasing intensity of intervention: dialogue, systematic observation, uncovering of activity, official requirements limiting the activity and finally the interdiction of the activity. Programs for strengthening the fundamental rights and fundamental freedoms as well as the implementation of a quality label to document adherence to the fundamental rights and fundamental freedoms make up the starting point of dialogue. To support the quality of the European Internal Market Label, sufficient controls are necessary. Natural and legal persons as well as other bodies awarded a current European Internal Market Label, should be provided with an easier access to benefits and should not be listed in the warning list according to Article 13 of this Directive. Who fails to comply with the extended imprint obligation according to Article 12 of this Directive or has been recognised by the competent authority as a supporter of extremism, will be registered in the warning list according to Article 13 of this Directive for disclosure of financial sources. If these measures are not sufficient to prevent supporters of extremism from

¹⁸ Commission communication of 29 November 2005 ‘The Prevention of and Fight against Terrorist Financing through enhanced national level coordination and greater transparency of the non-profit sector’ ([COM\(2005\) 620 final](#)).

their support of extremism, further measures should be considered, like for example the exclusion from public service jobs or the withdrawal of tax benefits. The mere infringement of the extended imprint obligation is not considered support of extremism and is for that reason not linked to an exclusion from public service jobs or the withdrawal of tax benefits.

- (18) The measures, provided in this Directive, are not primarily aiming at the prevention of money laundering or the financing of terrorism, but at the prevention of the support of extremism and thereby supplement the Directive (EU) 2015/849 of the European Parliament and the Council⁽¹⁹⁾. The register laid down in Article 30 of the Directive (EU) 2015/849 of beneficial owners is not necessarily a public register. However, the efficient prevention of the support of extremism requires, that the information collected within this register and concerning the supporters of extremism is made publicly available. That is the only way, how the harmful influence of supporters of extremism can be reduced in the best possible way. Only if employees, employers, educational establishments, authorities, non-profit organisations and major stakeholders know the supporters of extremism, they can prevent, that supporters of extremism increase their influence in the education sector as well as on the labour market and jeopardize the functioning of the internal market in the future and therefore of the European Union in toto. As also the supporters of extremism estimate the benefits of the internet and often use social media to recruit further supporters, accurate and verified information on supporters of extremism is needed. This would be the only way to allow the environment of affected persons, who are usually children or young people, to identify the intrinsic hazard of recruitment attempts by supporters of extremism and to possibly get a chance to react.
- (19) This Directive is without prejudice to Directive (EU) 2015/849 and especially to the provisions concerning the register of beneficial owners. The provisions of this Directive concerning the warning list and in particular the transmission duties from the national contact points to the Commission do not affect the provisions of Directive (EU) 2015/849. Also, Regulation (EU) 2015/847 of the European Parliament and of the Council⁽²⁰⁾ remains unaffected.
- (20) This Directive is without prejudice to the application of the Directive 2000/31/EC, especially its Articles 12 to 15 concerning the liability of intermediary service providers. Therefore, the intermediary service providers according to Article 12 of the Directive 2000/31/EC are also in the future not subject to a general monitoring obligation, whether their clients are supporters of extremism or not.
- (21) The obligations laid down in the Directive (EU) 2016/2102 of the European Parliament and of the Council⁽²¹⁾ should be applied, notwithstanding the obligations laid down in this Directive, especially concerning the disclosure. The transparency

¹⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC ([OJ L 141, 5.6.2015, p. 73](#)).

²⁰ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 ([OJ L 141, 5.6.2015, p. 1](#)).

²¹ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies ([OJ L 327, 2.12.2016, p. 1](#)).

provisions, proposed in this Directive are inspired by the provisions of the Directive (EU) 2016/2102. Therefore, considering the aim of ensuring the good functioning of the internal market also in the future, they do not have to be respected solely by public sector bodies, but by all who are physically present in the European Union and run a website, regardless, whether the technical infrastructure for this website is located within the area of the European Union or not. For the purposes of this Directive the term website should be understood in the broadest meaning of internet bound services, including but not limited to web pages, messaging servers or remote file servers.

- (22) As far as this Directive restricts, especially the fundamental rights of the freedom of thought, conscience and religion or the freedom of expression and information according to the Articles 10 and 11 of the Charter, the substance of those rights and freedoms as well as the principle of proportionality, laid down in Article 52(1) of the Charter, is ensured. These restrictions are necessary, in order to protect the fundamental rights and fundamental freedoms, guaranteed by the Treaties, even in the future and actually comply on the one hand with those public interest objectives, acknowledged by the Union, like the functioning of the internal market or the legislation of the Union based on scientific evidence and on the other hand with the needs to protect the rights and freedoms of others, namely of all natural persons, companies, non-profit and other organisations, acting within the Union, because they take advantage especially of the specific, positive consequences of the functioning of the internal market due to the fundamental rights and fundamental freedoms, guaranteed by the Treaties. Thus, the prohibition of abuse of rights according to Article 54 of the Charter should be applied for the area of the internal market in the best possible manner.
- (23) This Directive respects all fundamental rights, freedoms and principles, that are recognised by the Charter and laid down in the European Treaties, such as in particular: the respect for private and family life, home and communications, the protection of personal data, the freedom of thought, conscience and religion, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial, as well as cultural, religious and linguistic diversity.
- (24) Financers within the meaning of this Directive should be understood as payers according to Article 3(3) of the Regulation (EU) 2015/847, meaning persons, that hold a payment account and allow a transfer of funds from that payment account or, where there is no payment account, that give a transfer of funds order. Financers have to be disclosed, if supporters of extremism are registered with the warning list.
- (25) The Proposal for a Council Regulation⁽²²⁾ assumes a public benefit purpose, if (a) arts, culture or historical preservation, (b) environmental protection, (c) civil or human rights, (d) elimination of discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination, (e) social welfare, including prevention or relief of poverty, (f) humanitarian or disaster relief, (g) development aid and development cooperation, (h) assistance to refugees or immigrants, (i) protection of, and support for, children, youth or elderly, (j) assistance to, or protection of, people with disabilities,

²² Proposal of the Commission of 8 February 2012 for a Council Regulation on the Statute for a European Foundation (FE) ([COM \(2012\) 35 final](#)).

(k) protection of animals, (l) science, research and innovation, (m) education and training, (n) European and international understanding, (o) health, wellbeing and medical care, (p) consumer protection, (q) assistance to, or protection of vulnerable and disadvantaged persons, (r) amateur sports or (s) infrastructure support for public benefit purpose organisations, are supported.

- (26) A supporter of extremism is someone, who – irrespective of its legal form – supports extremism or does not distance himself/herself from other supporters of extremism. Identifying someone as a supporter of extremism, is carried out, according to national law and under procedures of a competent authority or the court seized and entails the registration with the warning list according to Article 13 of this Directive. The term ‘supporters’ is defined in the broadest sense, meaning that also companies, non-profit organisations, like religious institutions or educational institutions or other institutions, even if they do not have a legal capacity, are regarded supporters, if they support extremism according to this Directive. Thus, for example even loose groupings or associations without a legal capacity could be treated as supporters according to this Directive, if this would better serve the prevention of the support of extremism. The application of this Directive should not be prevented by the requirement of a special legal form for the support of extremism.
- (27) Support of extremism is characterized, similarly to terrorist offences⁽²³⁾, usually by objective and subjective elements. The subjective element of support of extremism is the intentional destruction or limitation of the rights, provisions and freedoms laid down in Article 1(2) to a greater extent than foreseen in the Charter. There is a relevant difference concerning the objective elements. Physical aggression is not a mandatory precondition for the support of extremism; the existence of, usually called preparatory acts, is sufficient. Even if, with regard to objective elements, the focus lies on preparatory acts, it is clear, that also the use of the highest and most extreme violence, like in the course of terrorist acts, at least also includes the support of extremism, which is why not only typical preparatory acts are enlisted in the catalogue of Article 4(5) of this Directive, but also the carrying out of terrorist acts or the participation in acts of war (Article 4(5)(k) and (l) of this Directive). In contrast to other acts of the European Union addressing terrorist crimes, this Directive should not determine criminal rules, but ensure the functioning of the internal market also in the future. Because of that, on the one hand the scope of support of extremism is broader and also includes preparatory acts and on the other hand the penalties have a civil law nature and not a criminal law one. The approach of this Directive of defining the support of extremism abstractly, in the beginning of Article 4(5) of this Directive, should ensure a protection of the internal market, that is as comprehensive and as effective as possible. At the same time the required rule of law should be kept respected, by the exact examples of the points (a) to (s) of Article 4(5), that are regarded support of extremism in any case. The real intentions of extremism often get veiled by the supporters of extremism, as particularly demonstrated by the story of the national socialist seizure of power. Because of this, assessing the factual circumstances is of top priority. If the factual actions result in support of extremism, they are regarded support of extremism, irrespective of how these actions may be called or commented. In particular, the assignment of support activities to various natural

²³ Council Framework Decision 2002/475/JI of 13 June 2002 on combating terrorism ([OJ L 164, 22.6.2002, p. 3](#)) as amended by Council Framework Decision 2008/919/JI of 28 November 2008 ([OJ L 330, 9.12.2008, p. 21](#)).

persons, legal persons or other bodies, acting in coordination, should not allow for a circumvention of the provisions of this Directive.

- (28) Thus, the actions laid down in the Council Framework Decision 2008/913/JHA ⁽²⁴⁾ on combating certain forms and expressions of racism and xenophobia, are regarded support of extremism in any case, as they promote a culture of dissociation and separation, that destroys the trust, which is necessarily needed for the functioning of the internal market. Those actions, to be punished according to the Council Framework Decision 2008/913/JHA are (a) publicly inciting to violence or hatred directed against a group or persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, (b) the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures or other material and (c + d) publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes. For the purposes of this Directive the incitement against persons, with a specific gender or a specific sexual orientation, should be also defined as support of extremism, because supporters of extremism usually create hostility against women and homosexual or transsexual persons.
- (29) However, not only the actions laid down in the Council Framework Decision 2008/913/JHA are regarded support of extremism. Also, if the belonging to a group, defined in Article 4(5)(a), is taken as a reason for destructing or limiting the rights and freedoms granted to this group by the Charter, these acts should qualify as support of extremism. Those, who deprive all or some of the rights granted to people by the Charter, just because they are part of a group according to Article 4(5)(a), for example, because they are Christian, women, hetero- or homosexual, Jewish, men or Muslims, are supporters of extremism according to Article 4(4) of this Directive.
- (30) The expulsion and displacement of people demanded in a way perceptible by public or carried out, due to these people being part of one of the groups specified in Article 4(5)(a), is at least a severe offence, as the offences of the Council Framework Decision 2008/913/JHA. The provision of Article 4(5)(c) does not contradict provisions on deportation, carried out on the basis of fair proceeding under the rule of law, especially when crimes had been committed.
- (31) The actions, trying to destruct or limit the ideological and religious neutrality of state institutions ('separation of church and state') to a greater extent than provided for in the Charter, undermine trust in the public sector, especially in governmental institutions. By destructing or limiting the neutrality of governmental institutions to a greater extent than foreseen in the Charter, the conduction of fair trials could not be generally assumed anymore, thereby eradicating trust, which is necessary for the functioning of the internal market. Article 4(5)(d) does not contradict the debate on religious symbolism in the public sector. The term public sector is not limited to acts done in the exercise of public authority, but refers to all fields, that are at least partly publicly funded, as for example spin-offs from public administration.
- (32) Actions, which aim at destruction, limitation of generally rejecting the primacy of man-made law or public authorities, undermine the confidence in public institutions, because the implementation of constitutional decisions could be questioned, whereby the confidence in the functioning of the internal market would also be destructed.

²⁴ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law ([OJ L 328, 6.12.2008, p. 55](#)).

Those who try to oppose enforcement measures by the state do not destruct, limit or generally reject the primacy of man-made law or public authorities. Furthermore, the primacy of man-made law is not questioned by someone, who exercises his/her right to demonstrate. Also forms of civil disobedience, protests or political or legal disputes between different administrative levels, like procedures, initiated by federal authorities against the central authorities, are not regarded actions of destruction, limitation or general rejection of the primacy of man-made law or public authorities. However, examples for such actions would be: postulates of the primacy of another law over man-made law, the systematic interference or manipulation of administrative proceedings, for example via cyber-attacks or the rejection of any state power, as the Freeman Movement does for example. That especially religious matters are not appropriate to break man-made law, is already laid down in Article 17 TFEU, according to which the Union respects the status of churches and religious associations or communities *under national law* in the Member States. Even though the terminology of some ideological, religious or other contents may include the word 'law' or 'right', as concerning those contents, that are declared as 'Divine Right' or 'Natural Law', however, these contents still do not constitute man-made law, because those contents were not created in accordance with a state – and consequently constitutional – legislative procedure. Thus, a provision like Article 17 TFEU is only necessary, because man-made law takes precedence; otherwise the respect of the state of churches and religious associations or communities would not have to be regulated within the man-made law of the Article 17 TFEU. In this context, man-made law just covers the law of a Member State, but not of a third country. Also, the law declared as binding by the legal system of a Member State is considered man-made law, even if for example it is of ecclesiastical origin. In sensitive areas, example given, when man-made law has priority over other enforceable value systems, minimum requirements in terms of the quality of the debate are required, otherwise damaging misunderstanding is highly probable. Actions on rejecting the primacy of man-made law, involve deeds as well as words. The general rejection of the primacy of man-made law or national authorities is for instance carried out, by unfounded and thus in abuse of rights, excessive claims for compensation against state bodies.

- (33) A special case of the destruction or limitation of the primacy of man-made law or the primacy of public authorities to a greater extent than foreseen in the Charter are the infringements of procedural rights in the broadest sense – defined as Citizens' rights and Justice in the Charter – according to Article 4(5)(g) and the call for infringements of provisions, to which a penalty is attached as well as the promise of indemnification or material incentives for such infringements according to Article 4(5)(j). Also, if the procedural rights, granted in the Charter, like for example the right to a fair trial, are intentionally infringed by professionals associated with justice or arbitration courts, this would entail an immense loss of trust, which could essentially affect the functioning of the internal market in the future. The term 'third parties' according to Article 4(5)(g) of this Directive refers to natural persons, legal persons or other institutions. A specific legal form of the third parties or their legal capacity is not required. Unlawfulness is constituted for example, if third parties are affected in a negative way concerning their rights, due to their belonging to a group according to Article 4(5)(a), for example by curtailing the evidential value of testimonies by members of a particular sex or by trying to constitute a legal duty to tolerate unlawful conduct due to belonging to a group according to Article 4(5)(a) of this Directive.

- (34) Moreover, the carrying out or the publicly perceptible demand of the introduction of physical punishments, like especially death penalty, is regarded a support of extremism according to Article 4(5)(h). The term ‘carried out’ supposes an actual implementation, meaning the factual execution of physical punishment or of the death penalty.
- (35) Intimidation, threatening, assaulting or damaging the property of people by criminal offences, for the reason of belonging to a group according to Article 4(5)(a) of this Directive or because of their activity as an accredited expert is defined as support of extremism according to Article 4(5)(i). For the purposes of this provision, for example an arbitration activity should be regarded support of extremism, if during that arbitration activity humans of a specific confession or a specific gender or a specific sexual orientation, are adjudged only fractions of their original claim, because of their confession, their gender or their sexual orientation. Also, dirtying churches, mosques or synagogues, when reaching the level of damaging property, as well as their damage or destruction constitutes support of extremism according to Article 4(5)(i).
- (36) The call for infringements of legal provisions, to which at least a financial penalty is attached, is regarded support of extremism according to Article 4(5)(j) of this Directive, just as offering incentives or compensations for such infringements. The term of ‘legal provisions’ refers to binding legal acts of the Union as well as the Member States, irrespective of their status and the fact, whether they are rules or prohibitions. Calls for infringement of non-state law, like for example treaties, are not perceived as support of extremism. It is not necessary to pursue a certain purpose with these calls; the mere calls and promises according to Article 4(5)(j) may sustainably undermine state authority, and they are therefore regarded support of extremism, notwithstanding the underlying purpose. Due to its threat to the legal system, the mere call for a breach of law as well as the mere promise of material incentives or compensations in favour of a breach of law, are already regarded as a support of extremism, even without any calls for a breach of law.
- (37) As far as the implementation of or the participation in terrorist acts or acts of war is not already subject to more severe penalties, the financial penalties laid down in this Directive should also be applied. A terroristic act according to Article 4(5)(k) of this Directive should be regarded according to the Council Framework Decision 2002/475/JHA on combating terrorism as a criminal offence (murder, injury, hostage taking, extortion, committing attacks, threatening, committing one of the offences previously mentioned, etc.), committed with a view to intimidate the population, to destabilise or to destroy the structures of a country or an international organisation or to force a government to refrain from taking specific actions. Whereas an act of war is only regarded support of extremism, in case of acting voluntarily with the aim of destructing or limiting the rights, principles and freedoms referred to in Article 1(2) of this Directive to a greater extent than laid down in the Charter. For the interpretation of ‘act of war’ according to Article 4(5)(l) of this Directive, the jurisdiction of the European Court of Justice should be considered.
- (38) As well, the recruitment or any other contribution to persuade others to participate in terrorist acts or acts of war according to Article 4(5)(k and l) of this Directive, is regarded a support of extremism according to Article 4(5)(s) of this Directive.
- (39) If integration measures, such as education or language acquisition, are undermined or impeded at least partially, ideal conditions in favour of the support of extremism are

created. Therefore, it has to be ensured that integration measures do not get undermined as efficiently as possible, to ensure the protection from future support of extremism and thus guarantee the functioning of the internal market also in the future. Additionally, – at least partially – factual prevention of integration measures could also affect financial interests of the European Union according to Article 325 TFEU. Public ‘provocations to reject educational and integration measures’ according to Article 4(5)(m)(i) of this Directive could be for example speeches, book sales or events. Objective discussions on teaching materials, especially for the purpose of their improvement, are not regarded support of extremism. ‘Negative influence of their decision bases’ according to Article 4(5)(m)(ii) of this Directive should especially be understood as threats, in particular towards the own children, the own partner or the own environment in the broadest sense. These persons benefit from a facilitated claim for damages against supporters of extremism according to Article 16(1)(b) of this Directive.

- (40) Also, the – criminally relevant – infringement of the free choice of political position, of belief, of religion, of gender, of sexual orientation, of citizenship, of appearance, of partners, of social environment, of education and training or profession according to Article 4(5)(n) of this Directive is regarded a support of extremism. ‘People’ according to this provision are especially understood as women, children and the closer environment of supporters of extremism. These persons benefit from a facilitated claim for damages against supporters of extremism according to Article 16(1)(c) of this Directive.
- (41) With regard to advertising, companies have to comply with many requirements as for example Directive 2002/58/EC of the European Parliament and of the Council ⁽²⁵⁾ or Directive 2005/29/EC of the European Parliament and of the Council ⁽²⁶⁾. In particular, the provisions concerning aggressive commercial practices according to the Articles 8 and 9 of the Directive 2005/29/EC should serve as a reference, which actions are understood as aggressive recruitment according to Article 4(5)(o) of this Directive. In any case, the factual commission or threat to commit offences, should be deemed aggressive in terms of Article 4(5)(o) of this Directive. The wording ‘foundation, association or any other body’ is based on Article 9(2)(d) of the Regulation (EU) 2016/679, dealing with lawfulness of processing of special categories of personal data. In contrast to this provision any other bodies are included, irrespective of whether they are with or without intention of making profit. This is intended to prevent circumvention of the original provision, in case that bodies do act with intention of making profit. In addition, Article 4(5)(o) of this Directive covers not only aggressive recruitment, but also the hindrance to resign from such a foundation, association or any other body.
- (42) Council Framework Decision 2008/913/JHA penalises the (publicly) inciting to violence or hatred as well as the publicly condoning, denying or grossly trivialising

²⁵ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector ([OJ L 201, 31.7.2002, p. 37](#)).

²⁶ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ([OJ L 149, 11.6.2005, p. 22](#)).

crimes of genocide, crimes against humanity and war crimes. According to Article 2 of the Council Framework Decision 2008/913/JHA the Member States should also ensure that instigation and aiding of these acts, is punishable. Solidarisation or any other form of support is not necessarily included thereof. For purposes of this Directive, it should be clarified, that any form of support of supporters of extremism is also regarded support of extremism. The support of supporters of extremism is not restricted to direct or immediate support. Even if supporters of extremism are supported indirectly by the support of other supporters of extremism, this should be regarded support of extremism according to Article 4(5) of this Directive. There is no restriction on a maximal level from which on, indirect support is not regarded support of extremism anymore. The support of other supporters of extremism may take a variety of forms, as for example by organising or enabling public appearances of other supporters of extremism or by joint public appearances. Even the positive reference or use of relevant symbols of supporters of extremism is regarded support of extremism according to Article 4(5)(p)(ii) of this Directive. This duty to refrain from positively mentioning supporters of extremism is the responsibility of those being responsible for the content, thereby clarifying, that the exclusion of a general obligation to monitor according to Article 15 of the Directive 2000/31/EC is maintained. Factual cooperation are for example the joint use of resources, like for instance the infrastructure or immovable property, the joint deployment of staff, the personal union of organs, the joint use of sources of financing, the take-over of tasks, political interventions or active assistance. The exchange of information according to Article 4(5)(p)(iv) of this Directive comprises any exchange of information, in particular communication of contact details. As supporters of extremism often seek to hide their real intentions from constitutional control by secret structures and obfuscation, this Directive determines, that even those, who create the reasoned impression of supporting supporters of extremism and are unwilling to do anything about that impression, do support supporters of extremism. The prerequisite for that, is the creation of reasoned faith, which inter alia presupposes, that the supported conduct is at least publicly perceptible. Therefore, the impression of supporting an only privately perceptible conduct can never be created, as the apparent supporter is most likely unaware of the apparent supported conduct and thus the mandatorily required intention is not fulfilled. However, if the apparent supporter has verifiably been made aware of his/her conduct and still does not take actions against this appearance, the supporter is regarded a supporter of extremism. Usually, an explicit dissociation from the other supporters of extremism should be sufficient. However, if dissociations already occurred, because of the previous history, and were also legitimately questioned, further new facts concerning a sufficient dissociation would be required. Regarding the publicly perceptible disassociation, the same rules apply as for public perceptibility in general, i.e. generally perceptible for at least 5 persons. In addition, associations, legal persons, companies and other bodies have to accept, that the support of extremism is applied against them, if they condone the support of extremism by those natural persons, legal persons, companies or other bodies that represent them, without keeping their distance or not finally separate from those natural persons, legal persons, companies or other bodies representing them, who further support extremism, for instance by means of a verifiable termination of employment relationships or memberships.

- (43) In any case, the financing of the support of extremism is regarded a support of extremism. Also, the public funding of supporters of extremism without inquiry of the warning list, is regarded support of extremism, provided that the recipients are

supporters of extremism. This is especially the case, if the financing is administered contrary to the Regulation 847/2015/EU.

- (44) Likewise, the recruitment or any other contribution to persuade others to support extremism, like especially the participation in terrorist acts or acts of war according to Article 4(5)(k) and (l) of this Directive, is regarded support of extremism. According to this provision everyone, who invites, instigates or coerces others or contributes to the participation of others in another way, to destruct or limit the rights, principles and freedoms laid down in Article 1(2) to a greater extent than foreseen in the Charter, supports extremism.
- (45) According to Article 5 of this Directive the Member States have to appoint one or more national contact points. The national contact points have to provide the Commission with the data, required for the list of the accredited experts as well as for the warning list. In contrast, the competent authorities should give decisions, whether the requirements for supporting extremism are met, regarding the registration with the warning list according to Article 13 of this Directive and on the administrative fines against supporters of extremism. Usually, the right to claim compensation is exercised before the courts.
- (46) It has to be ensured, that the supporters of extremism, neither receive subsidies (D.3), nor capital transfers (D.9) according to the Regulation (EU) No 549/2013 of the European Parliament and the Council⁽²⁷⁾ from public authorities nor hold public positions. The exclusion from public positions has to take place, in order to ensure the neutrality of state institutions and to guarantee, that supporters of extremism are not provided access to standard-setting organs or security-relevant data and applications. The interdiction to pay supporters of extremism from public resources, regarding far-reaching decisions, in particular in the field of legislation or concerning decisions with long-term and/or intense impacts, like for instance in the education sector, also includes, but is not limited to private consultancy firms, if they support extremism.
- (47) Article 5(4) of this Directive shall ensure that, inviting supporters of extremism for example for panel discussions is not itself regarded support of extremism according to this Directive, provided that the cooperation exclusively aims at the avoidance of support of extremism by others.
- (48) Providers of products and services of the internal market, who respect the fundamental rights and fundamental freedoms of the Union exemplarily, should be awarded the European Internal Market Label. This label should be awarded regardless, whether the awarded providers are natural persons, legal persons, as for example companies, non-profit organisations, authorities or other institutions. The European Internal Market Label should prove, that this Directive is respected by providers and their suppliers and sub-contractors.
- (49) European Internal Market Labels may only be awarded, if the rights, principles and freedoms according to Article 1(2) of this Directive are respected. In making the evaluation regarding the award of the European Internal Market Label, above all the factual circumstances should be considered.

²⁷ Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union ([OJ L 174, 26.6.2013, p. 1](#)).

- (50) The Radicalisation Awareness Network is predestined for supporting the competent authorities concerning the awarding of the European Internal Market Labels. The Radicalisation Awareness Network should especially assist, when third countries are involved. The financial expenses of the competent authorities caused by this Directive should be covered by the administrative fines according to Article 17 of this Directive.
- (51) To guarantee the independence of accredited experts, this Directive interdicts, that accredited experts examine the same applicant a second consecutive time. This ensures that, at each extension of the European Internal Market Label, the competent accredited expert changes for the applicant.
- (52) To ensure a lawful awarding of the Internal Market Label, an effective monitoring has to be carried out on a regular basis.
- (53) In order to contain the support of extremism, an extended imprint has to be provided, including a personalised edition of the Guarantee Statement according to Annex I as core element of this extended imprint. This extended imprint obligation applies to each provider of a website, having a postal address in the territory of the European Union as well as a website accessible from the territory of the European Union ('entities obliged to provide publication details' according to Article 4(3) of this Directive). In the light of the quick technological progress not only webpages, but also each website is considered, notwithstanding if conducted per email, in the frame of social media, by means of websites or by any other means of internet connections, which would also contain mobile apps for example. Support by representative bodies, especially of companies is permitted and appears practical. The extended imprint has inter alia to provide information concerning the unique identification of the entity obliged to provide publication details according to Article 4(3), like the date of birth for natural persons or the appropriate registration number in all other cases. The appropriate register numbers refer for example to identifiers of commercial registers, association registers or foundation registers. The information to uniquely identify entities according to Article 4(3) of this Directive are necessary to ensure, that persons, whose rights according to this Directive have been infringed by entities according to Article 4(3), to pursuit their rights according to chapter IV of this Directive. The national identification number or any other identifier of general application should be understood as defined by Article 87 of the Regulation (EU) 2016/679.
- (54) The extended obligation to provide an imprint also includes the obligation to disclose the financial structure, which is not restricted to information up to a specific level, but solely ends at the level of natural persons and is also applicable to beneficial owners in third countries. Those who do not fulfil this obligation are registered in the warning list according to Article 13 of this Directive and get fined with an administrative fine up to 2 million EUR according to Article 17(3) of this Directive.
- (55) Those who are recognised as supporters of extremism after conducting a due process in front of a competent authority, are registered with the warning list of the Commission according to Article 13 of this Directive. Likewise, entities obliged to provide publication details according to Article 4(3), who do not entirely fulfil their extended imprint obligation according to Article 12 of this Directive, are registered with the warning list. The special provisions regarding the use of personal data for the purposes of the warning list take precedence over the general provisions of the Regulation (EU) 2016/679. According to these special regulations, the annual transfers of funds at least of the three biggest financers and all financers, who transferred more

than 100 000 EUR per year to the supporters of extremism, have to be published by means of the warning list. For reasons of proportionality, transfer of funds should only be published in an aggregated form, and funders of supporters of extremism should only be published in an unordered way, so that no additional information than identity of funders and meeting the requirement of Article 13(2)(c) of this Directive can be derived from this disclosure.

- (56) The registration with the warning list according to Article 13 of this Directive is only legitimate after conducting a legal procedure under the rule of law, especially protecting the right to fair trial according to Article 47 of the Charter and Article 6 of the European Convention on the Protection of Human Rights and Fundamental Freedoms. For the sake of procedural economy, Member States may provide for joint procedures regarding the infringement of the extended imprint obligation by the same entities according to Article 4(3) of this Directive.
- (57) The support of extremism has particularly negative effects in the context of employment, as it causes uncertainty on the part of employers and employees and intimidates or damages them. Furthermore, the support of extremism hinders an open and thus innovative working climate, due to its proximity to violence, its actual application of violence or its often discriminatory nature. For these reasons, this Directive provides for additional short-term-cancellation rights in the context of employment relationships at no additional costs, if the contracting partner is a supporter of extremism, because the other contracting partner cannot be expected to continue collaboration with a supporter of extremism. Also, the usual single payments, as for example rewards or severance payments should not be granted in these cases.
- (58) The particular danger of supporting extremism is characterized by its hostility to knowledge. Especially if children and partners have their right to education according to Article 14(1) of the Charter infringed by supporters of extremism, the negative – especially economically negative – effects appear many years later and in the worst case even in the next generations. As the threat of unemployment declines with an increasing level of education and as the economic development becomes increasingly dependent on the outcomes and products of the knowledge society, compensation claims against supporters of extremism have to be facilitated, if their support of extremism was the reason for not completing education or for not being employed. The right of the parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions according to Article 14(1) of the Charter is not affected, as the Charter does not entitle, but on the contrary, prohibits parents according to Article 14(3) in conjunction with Article 54 of the Charter to educate children in an extremist way. From the internal market's point of view there is a high interest in a peaceful reintegration of recruited persons, also if they were recruited for terrorist acts or for becoming foreign combatants. In order to allow these foreign combatants a perspective at the centre of our society and a factual new start, those persons, invited, instigated or coerced to support extremism, should enjoy simplified rights to claim compensation against their recruiters. These privileged claims do neither affect nor eliminate (criminal) liability. If the invited, instigated or coerced persons took part in terrorist acts or in actions abroad as foreign combatants, those simplified rights to claim compensation should only be granted, provided that the invited, instigated or coerced persons have completed measures of awareness-raising, integration, prevention and education with a total of at least 1.800 hours. This

value corresponds to the average annual working time in Europe ⁽²⁸⁾. This requirement could be met in legal proceedings for damages for example by transferring the awarded compensation to an escrow account and by step-by-step-payments in exchange for certificates of completed measures of awareness-raising, integration, prevention and education. The principle ‘nulla poena sine lege’ according to Article 49 of the Charter is not infringed in this case, because it is a civil right regulation and not a criminal one, so that an application can be provided even for recruitments that took place before this Directive entered into force. Thus, the Member States have – due to the specific danger of invitation, instigation and coercion to the support of extremism – to explicitly provide for the admissibility of procedures concerning cases, in which the invitation, instigation and coercion already took place before this Directive entered into force.

- (59) The Member States provide for effective, proportionate and dissuasive penalties for infringements of this Directive. For this purpose, administrative fines should be imposed up to 20 Million EUR or ten times the amount provided for the support of extremism. Criteria for the level of administrative fines according to Article 16(2) of this Directive are in particular: (a) the type, gravity and duration of the infringement, (b) the actions taken to mitigate the damage, (c) the degree of responsibility, (d) any relevant previous infringements, (e) the degree of cooperation with authorities, (f) the manner in which the infringement became known, (g) the level of influence and in particular of the financial support from third countries, that disregard the rights, principles and freedoms laid down in Article 1(2), whereat the negative influence of a third country is regarded higher, the bigger the amount of infringements of the European Human Rights Convention, stated by the European Court of Human Rights⁽²⁹⁾, is. The level of administrative fines is proportionate according to the administrative fines, laid down in the Regulation (EU) 2016/679 and to the fact, that the aim of ensuring the prevention of the support of extremism according to Article 1 of this Directive in favour of the functioning of the internal market also in the future, is of equal or even of superior importance, compared to data protection. Furthermore, a high level of the financial penalties is necessary, especially in cases, that supporters of extremism receive support from third countries, in particular financially, so that the administrative fines can be effective and dissuasive.
- (60) The Guarantee Statement according to Annex I has a twofold role: On the one hand the supporters of extremism should be driven to declare their true intentions and thus curbing a creeping radicalisation of society. On the other hand, all should be remembered, which mindsets lay the foundation for radicalisation. Thereby, the extended imprint obligation according to Article 12 has itself a de-radicalising effect, as it encourages to deal with the origins of extremist ideologies. Thus, the trust necessarily needed for the sustainable economic action and further for the functioning of the internal market also in the future is ensured. —

²⁸ [Eurofound, ‘Working time developments – 2008’.](#)

²⁹ [Statistics of the European Court of Human Rights on violations by article and by State 1959 – 2016.](#)

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

General Provisions

Article 1

Subject-matter and objectives

- (1) This Directive lays down rules on the prevention of the support of extremism, to ensure the functioning of the internal market also in the future.
- (2) To this end it is necessary, that
 - a) the values, as laid down in Article 2 TEU,
 - b) the ideological and religious neutrality of the public sector,
 - c) the primacy of man-made law and public authorities as well as
 - d) the freedom of scienceremain unimpaired, so that the essential prerequisites of non-violence and mutual trust for the functioning of the internal market are further continued also in the future.
- (3) This Directive prevents the supports of extremism and thus ensures the functioning of the internal market also in the future, in particular
 - a) through the exclusion of supporters of extremism from influential positions of public life;
 - b) by excluding supporters of extremism from all kind of benefits;
 - c) through the implementation of a European Internal Market Label, that allows for transparency regarding full observance of the rights, principles and freedoms as laid down in paragraph 2 throughout the entire value chain, in a way easy to understand, especially for consumers;
 - d) through the establishment of a monitoring system for the awarding of a European Internal Market Label;
 - e) through specific and effective disclosure obligations;
 - f) through effective remedies and penalties against supporters of extremism.

Article 2

Material scope

- (1) This Directive applies to the support of extremism as laid down in Article 4(5).
- (2) This Directive shall not apply to
 - a) activities, which fall outside the scope of Union law as well as

- b) the activity of political parties, represented in the European Parliament or in national parliaments.
- (3) This Directive is without prejudice to:
- a) Directive 2000/31/EC and especially the provisions of Article 12 to 15 of this Directive concerning the liability of intermediary service providers;
 - b) Regulation (EU) 2015/847 on information accompanying transfers of funds;
 - c) Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing;
 - d) Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies.

Article 3

Territorial scope

- (1) This Directive applies to all actions in support of extremism and taken within the European Union, which may pose threats to the good functioning and the existence of the internal market also in the future.
- (2) This Directive is also applicable, if the actions in support of extremism are taken outside the territory of the European Union, but are aimed at the destruction or limitation of the rights, principles and freedoms provided for in Article 1(2) within the European Union and to a greater extent than foreseen in the Charter.

Article 4

Definitions

For the purposes of this Directive, the following definitions apply:

- 1. 'financers' means payers according to Article 3(3) of the Regulation (EU) 2015/847;
- 2. 'non-profit organisations' means all institutions, irrespective of their legal form, serving public interests in a broader sense;
- 3. 'entities obliged to provide publication details' means all natural and legal persons as well as other bodies, that have a postal address in the territory of the European Union and a website, which is accessible within the territory of the European Union;
- 4. 'supporters of extremism' means natural and legal persons as well as other bodies, who support extremism or who do not distance themselves from other supporters of extremism upon request by the competent authority, at least criminal and terroristic organisations;
- 5. 'support of extremism' means all actions, which aim at destructing or limiting the rights, principles and freedoms according to Article 1(2) to a greater extent than foreseen in the Charter and thus threatening the functioning of the internal market in the future, whereat support of extremism is considered in any case, if intentionally
 - a) the actions according to Article 1(1)(a) of the Council Framework Decision 2008/913/JHA are demanded in a way perceptible by public or taken

against a group or a member of a group as defined in Article 1(1)(a) of the Council Framework Decision 2008/913/JHA, whereat for purposes of this Directive also the gender and sexual orientation are regarded a criteria according to Article 1(1)(a) of the Council Framework Decision 2008/913/JHA;

- b) the destruction and limitation of the rights and freedoms of people granted to them by the Charter, is demanded in a way perceptible by public or carried out, due to these people being part of a group defined in (a) and to a greater extent than foreseen in the Charter;
- c) the expulsion or displacement of people is demanded in a way perceptible by public or carried out, due to these people being part of a group defined in (a);
- d) the destruction or limitation of the ideological and religious neutrality in the public sector to a greater extent than foreseen in the Charter, is demanded in a way perceptible by public or carried out;
- e) the destruction, limitation or general rejection of the primacy of man-made law or public authorities, is demanded in a way perceptible by public or carried out;
- f) the destruction or limitation of rights, principles and freedoms according to Article 1(2) and to a greater extent than foreseen in the Charter, is demanded in a way perceptible by public or carried out;
- g) third parties are affected unlawfully in exercising their Citizens' rights and Justice as laid down in the Charter, due to these people being part of a group defined in (a);
- h) the introduction of physical punishment, in particular the death penalty, is demanded in a way perceptible by public or carried out;
- i) people are intimidated, threatened, assaulted or have their property damaged by criminal offences, due to
 - i) being part of a group defined in (a) or
 - ii) their activities as accredited experts;
- j) calling for infringements of legal provisions, that are at least fined with a financial penalty, as well as offering material incentives or compensations for such infringements;
- k) committing terroristic acts, other criminal offences relating to terrorism or acts for financing terrorism;
- l) committing voluntary acts of war, without being part of a regular army of a Member State, aiming at the destruction or limitation of rights, principles and freedoms according to Article 1(2) and to a greater extent than foreseen in the Charter;
- m) excluding people from educational and integration measures, especially through
 - i) public provocations to reject educational and integration measures without giving factual reasons for this rejection;
 - ii) criminal offences to negatively influence their motivation;

- n) impairing people's choice of political position, of belief, of religion, of gender, of sexual orientation, of citizenship, of appearance, of partners, of social environment, of education and training or profession, by criminal offences;
 - o) recruiting people in an aggressive manner to participate in ideological or religious foundations, associations or any other bodies or hindering people from leaving such institutions;
 - p) supporting other supporters of extremism, especially
 - i) through public appearance, also by linking to websites, or
 - ii) by providing all kind of media contents, as someone being responsible for the content, which positively highlight actions of other supporters of extremism or using their symbols or
 - iii) through de-facto cooperation or
 - iv) the exchange of information or
 - v) by refraining from publicly perceptible dissociation, after the public performance has created the reasonable appearance in the support of other supporters of extremism or in the support of extremism or
 - vi) by refraining from publicly perceptible dissociation from contracted people, after their first support of extremism, or by refraining from separation from contracted people, after any further support of extremism by them,although it was known or could reasonably have been known, that the supported persons or bodies had been supporters of extremism;
 - q) taking financial actions for the support of extremism;
 - r) conducting payments
 - i) to supporters of extremism or
 - ii) relating to the support of extremismin a way that is not compliant to the provisions of Regulation (EU) No. 2015/847;
 - s) inviting, instigating or coercing people to support extremism, especially by participating in the actions laid down in point (a) to (r), as for example in terroristic acts according to point (k) or in acts of war according to point (l) or contributing in another way to the support of extremism.
6. 'national contact points' means the offices nominated by the Member State according to Article 5(1).
7. 'competent authority' means the authorities and offices, undertaking the obligations laid down in this Directive according to the legal system of the Member State.

Article 5

General principles

- (1) Every Member State appoints one or more national contact points for a cross-border defence of negative effects of extremisms for the internal market and informs the Commission about names and contact details of those contact points. The Commission and the Member States publish that information. The national contact points facilitate the exchange of information according to this Directive and closely work together with each other and the Commission, especially regarding Article 20.
- (2) The Member States take the necessary actions to ensure that supporters of extremism, registered in the warning list according to Article 13
 - a) are provided neither with
 - i) subsidies according to Annex A No 4.30 of the Regulation (EU) No 549/2013 nor
 - ii) capital transfers according to Annex A No 4.1.45 of the Regulation (EU) No 549/2013 from public resources and
 - b) are not allowed to hold a public position.
- (3) Each Member State shall take the necessary measures to ensure that supporters of extremism are not financed by public funds for the purpose of making decisions, that
 - a) could have impacts on a big number of persons, like for example in legislation or related areas or
 - b) could have long term and intensive impacts on just several persons, like for example in the area of education.
- (4) The Member States ensure, that the cooperation with supporters of extremism is not regarded support of extremism, provided that, this cooperation is necessary to prevent the support of extremism by others.

CHAPTER II

European Internal Market Label

Article 6

European Internal Market Label

- (1) In order to ensure the functioning of the internal market also in the future the European Internal Market Label should make the observance of the rights, principles and freedoms laid down in Article 1(2) transparent, during the entire value chain, especially for consumers.
- (2) The Member States allow providers of products and services of the internal market to mark their products and services with the European Internal Market Label, if
 - a) the relevant European Internal Market Label is awarded from the competent authority and

- b) the period of validity of the Internal Market Label of two years has not expired.
- (3) Each Member State shall take the necessary measures to ensure that for products and services, that do not comply with the provisions laid down in this Directive the Internal Market Label will not be used
 - a) anywhere in the Union and
 - b) in any of their official languages concerning the labelling and advertising as well as in business papers.
- (4) Each Member States shall prohibit all designations, including those designations used in trademarks as well as labelling and advertising practices, which could mislead consumers and users by making them believe that the products and services concerned are produced or performed in accordance with the provisions of this Directive.
- (5) The Commission determines specific criteria for the presentation, composition, size and design of the logo in accordance with the proceeding of Article 19(3).

Article 7

Criteria for the European Internal Market Label

- (1) Each Member State shall take the necessary measures to ensure that the European Internal Market Label is only awarded, if the applicants, their suppliers and their subcontractors, respect the rights, principles and freedoms laid down in Article 1(2) through their actual activity.
- (2) Each Member State shall take the necessary measures to ensure that a European Internal Market Label is not awarded or one that has already been awarded, is withdrawn immediately in case of a support of extremism.
- (3) The Member States may determine, that former supporters of extremism can be awarded a European Internal Market Label after a specific period of time. This period of time must not be less than 10 years after the legally binding decision on deletion from the warning list according to Article 14(2).

Article 8

Awarding the European Internal Market Label

- (1) The Member States shall provide, that the European Internal Market Label is awarded by competent authorities, which may make use of the expertise from the Radicalisation Awareness Network.
- (2) Each Member State shall take the necessary measures to ensure that European Internal Market Labels are only awarded on basis of positive reports of accredited experts and the preparation of the report meets the following requirements:
 - a) The preparation of the report shall be in compliance with scientific standards, in particular methods up-to-date and internationally recognised.
 - b) The report has to critically deal with all available information about the applicants, their suppliers and their subcontractors. At least all information,

available in the national language has to be considered. If, regarding the preparation of the report, the evaluation of the relationships of the applicants, their suppliers or subcontractors to

- i) other Member States is crucial, accredited experts from the concerned Member States need to be involved in the preparation, or
 - ii) third countries is crucial, the Radicalisation Awareness Network needs to be involved.
- c) During the preparation of the report, information has to be gathered on-site at least once. The number of the on-site surveys has to be confirmed in the report. The reasons for less than five on-site surveys have to be determined in the report.

Article 9

Accredited experts

- (1) Each Member State shall take the necessary measures to ensure that the competent authority(ies) train(s) accredited experts for the certification of providers according to Article 6(2). This training must be renewed at least every four years and has to guarantee that the accredited experts have the expertise required by this Directive.
- (2) Member States have to communicate an updated list of the accredited experts to the Commission via the national contact point(s) on a monthly basis. The Commission shall publish this list in the internet.
- (3) In accordance with the proceeding of Article 19(2) the Commission lays down the technical prerequisites, formats and standards for the transmission of data pursuant to paragraph 2.
- (4) Each Member State shall take the necessary measures to ensure that accredited experts
 - a) do not examine the same applicants a second consecutive time and
 - b) are neither intimidated nor threatened nor assaulted nor have their property damaged due to their activity.

Article 10

Legal effects of the European Internal Market Label

Each Member State shall take the necessary measures to ensure that providers of products and serviced, awarded a valid European Internal Market Label, are not registered in the warning list according to Article 13.

Article 11

Monitoring system

- (1) Each Member State shall take the necessary measures to ensure that the competent authorities, take the measures to monitor and control whether the obligations according to this chapter are met.
- (2) The monitoring, established by the Member States shall ensure that
 - a) European Internal Market Labels are not obtained by fraud due to incorrect and incomplete information and
 - b) at least one unannounced inspection is carried out during the period of validity of the European Internal Market Label.

CHAPTER III

Measures for the defence of negative effects of extremism for the internal market

Article 12

Extended imprint

- (1) Each Member State shall take the necessary measures for containing the support of extremism to ensure that entities obliged to provide publication details according to Article 4(3) permanently provide the following information in the context of their website:
 - a) name;
 - b) further details on the identification, thus
 - i) the date of birth or a national identification number or another identifier of general application for natural persons or
 - ii) a national identification number or another identifier of general application in all other cases;
 - c) address, thus
 - i) the address of the main residence with regard to natural persons or
 - ii) the address, where the body is established, in all other cases;
 - d) personalised Guarantee Statement according to Annex I;
 - e) information about the beneficial owner according to paragraph 3.
- (2) Each Member State shall take the necessary measures to ensure that the entities obliged to provide publication details according to Article 4(3) allow for a simple notification of supporters of extremism by linking to
 - a) the competent authority as well as
 - b) the Radicalisation Awareness Network.

- (3) Each Member State shall take the necessary measures for containing the support of extremism to ensure that all legal persons and other institutions, in particular companies and non-profit organisations, that have a postal address in the territory of the European Union, disclose their financial structure by giving all information according to points (a) to (c) of paragraph 1 about the beneficial owners according to Article 3(6) of the Directive (EU) 2015/849, until all beneficial owners can be traced back to natural persons. The Member States shall provide that this information is also given for all legal persons and other institutions, in particular companies and non-profit organisations with a registered office in a third country.
- (4) Each Member State shall take the necessary measures to ensure that the information given according to paragraphs 1 to 3 is reviewed at least every 14 days to make sure that it is up-to-date and gets updated if necessary.
- (5) The Commission has the power to adopt delegated acts according to Article 18 to modify the Guarantee Statement laid down in Annex I, if current developments show, that the support of extremism attacks other rights, principles and freedoms laid down in Article 1(2), but not covered by Annex I.

Article 13

Warning list

- (1) The Commission has to keep a warning list, in which
 - a) supporters of extremism as well as
 - b) entities obliged to provide publication details according to Article 4(3), who did not entirely fulfil their obligation according to Article 12
 are registered.
- (2) The warning list has to contain at least:
 - a) information according to Article 12(1) except the Guarantee Statement according to Article 12(1)(d);
 - b) the reason for registration with the warning list;
 - c) the annual aggregated income of the persons and bodies registered according to paragraph 1 – if available – from the date of taking up their activity, including at least
 - i) the amounts transferred as well as
 - ii) the information about the payer of transfers of funds according to Article 4(1) of the Regulation (EU) 2015/847
 in an aggregated and unordered form, so that the annual transfers of funds at least of the three biggest financers and all financers, who transferred more than 100 000 EUR per year to the supporters of extremism, can be retrieved from the warning list;
 - d) the competent authority, including at least
 - i) its geographical address as well as

- ii) the information, which allow to immediately get in contact and to communicate directly and efficiently with the authority, including its email address.
- (3) As soon as the persons according to point (b) of paragraph 1 entirely fulfil their extended imprint obligation according to Article 12, their data shall be deleted from the warning list. Each Member State shall take the necessary measures to ensure that in these cases, the competent authorities immediately request the deletion from the warning list from the Commission.
 - (4) Each Member State shall take the necessary measures to ensure that the data according to paragraph 2 are transferred to the Commission on a daily basis. For this purpose, each Member State shall provide among others, that the necessary data of
 - a) the competent authorities and
 - b) the courts, seized in respect of matters of his Directiveare transferred to the Commission by the national contact points.
 - (5) In accordance with the proceeding of Article 19(2) the Commission lays down the technical prerequisites, formats and standards for the transmission of data pursuant to the paragraphs 2 to 4.
 - (6) The warning list shall be published on the internet in a generally accessible way.

Article 14

Procedure

- (1) Each Member State shall take the necessary measures to ensure that persons and bodies are only registered with the warning list, if
 - a) a due process, in particular regarding the requirements of Article 6 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, was conducted and
 - b) during this due process, the meeting of the requirements according to Article 13(1) was confirmed.
- (2) Each Member State shall take the necessary measures to ensure that deletions from the warning list only take place, after having confirmed in a due process according to paragraph 1, that the requirements of Article 13(1) are no longer met.
- (3) Member States may allow for joint procedures regarding Article 13(1)(b) provided that the same entities obliged to provide publication details are involved.

Article 15

Measures in the working world

- (1) Each Member State shall take the necessary measures to ensure that the refusal by employees to support extremism, is not regarded a breach of duties and does not result in discrimination of the concerned employees.

- (2) Each Member State shall take the necessary measures to ensure that employees, who are requested to support extremism have the right
- a) to terminate their employment contract with immediate effect and
 - b) to claim compensation amounting to at least twelve monthly wages.
- (3) Furthermore, each Member State shall take the necessary measures to ensure that employers are allowed to terminate employment contracts with supporters of extremism at any time with immediate effect and the effect, that single payments, rewards, severance payments or other benefits, which are usually granted at the termination of such contracts and are not dependent upon the performance, need not to be granted in these cases.

CHAPTER IV

Remedies and Penalties

Article 16

Right to compensation and liability

- (1) The Member States shall ensure that any person who has suffered material or non-material damage as a result of an infringement of this Directive by a supporter of extremism shall have the right to receive compensation from the supporter of extremism. In particular, the Member States shall ensure that the right to compensation is granted against supporters of extremism:
- a) at least in the amount of four median annual salaries of the particular Member State to everyone, who
 - i) is affected in exercising her or his Citizens' rights and Justice according to the Charter, especially pursuant to Article 4(5)(g) of this Directive in arbitration proceedings by the aforementioned supporters of extremism or
 - ii) is intimidated, threatened, assaulted or has her or his property damaged by criminal offences, due to being part of a group according to Article 4(5)(a) of this Directive by the aforementioned supporters of extremism or
 - iii) is intimidated, threatened, assaulted or has her or his property damaged by criminal offences, due to her or his activity as an accredited expert;
 - b) at least in the amount of four median annual salaries of the particular Member State to everyone, who, as a child or partner of the aforementioned supporters of extremism, was not able to complete her or his desired education, because of the support of extremism, in particular according to Article 4(5)(m);
 - c) at least in the amount of four median annual salaries of the particular Member State to everyone, who, as a child or partner of the aforementioned supporters of extremism, was not able to take a job, because of the support of extremism, in particular according to Article 4(5)(n);

- d) at least in the amount of four median annual salaries of the particular Member State to everyone, who, as a child of the aforementioned supporters of extremism, was affected in her or his rights according to Article 4(5)(n) after he or she came of age, because of the support of extremism, in particular according to Article 4(5)(n);
 - e) at least in the amount of four median annual salaries of the particular Member State to everyone, who has been invited, instigated or coerced to support extremism by the aforementioned supporters of extremism according to Article 4(5)(s), whereas persons, that took part in terrorist acts or in actions abroad as foreign combatants have to complete measures of awareness-raising, integration, prevention and education with a total of at least 1.800 hours.
- (2) Each Member State shall take the necessary measures to ensure that supporters of extremism are exempt from liability according to paragraph 1, if they can prove, that in any way they are not responsible for the event giving rise to the damage.
 - (3) Each Member State shall take, when the damage has been caused by more than one supporter of extremism according to paragraph 1, the necessary measures to ensure effective compensation for the injured persons, by rendering each involved supporter of extremism liable for the entire damage.
 - (4) Each Member State shall take the necessary measures to ensure that supporters of extremism, who paid the entire compensation for the damage suffered according to paragraph 3, are entitled to claim back from the other supporters of extremism involved in the same damage that part of the compensation corresponding to their part of responsibility for the damage.
 - (5) Each Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, persons who consider themselves infringed according to paragraph 1 and establish, before a court or another competent authority, facts from which the existence of an infringement according to paragraph 1 may be presumed, it shall be for the respondent to prove that there has been no breach of this Directive.
 - (6) Each Member States shall take the necessary measures to ensure that the protection of persons, who are authorised to institute proceedings according to paragraph 1, is also applicable to facts, that have occurred before the entry into force of this Directive.

Article 17

Penalties

- (1) Member States shall provide for effective, proportionate and dissuasive penalties for infringements of this Directive.
- (2) Member States shall ensure, that when deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:
 - a) the nature, gravity and duration of the infringement taking into account the nature scope or purpose of the infringement concerned as well as the number of

- individuals affected by the infringement and the level of damage suffered by them;
- b) any action taken by the supporter of extremism to mitigate the damage suffered by the concerned individuals;
 - c) the degree of responsibility of the supporter of extremism;
 - d) any relevant previous infringements by the supporter of extremism;
 - e) the degree of cooperation with the competent authority, in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
 - f) the manner in which the infringement became known to the competent authority, in particular whether, and if so to what extent, the supporter of extremism notified the infringement;
 - g) the level of influence and in particular of the financial support from third countries, that disregard the rights, principals and freedoms laid down in Article 1(2);
 - h) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.
- (3) Member states shall ensure that infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to 2 000 000 EUR:
- a) the use of European Internal Market Labels contrary to the provisions of this Directive, in particular Article 6;
 - b) obtaining the European Internal Market Label by fraud within the meaning of Article 11(2)(a);
 - c) disregard of the extended imprint obligation according to Article 12.
- (4) The support of extremism according to Article 4(5) shall, in accordance with paragraph 2, be subject to administrative fines up to 20 000 000 EUR or ten times the amount of the investment for the support of extremism from the supporter of extremism, whichever is higher.
- (5) Furthermore, the Member States ensure that confiscation and submission of objects or assets used to support extremism according Article 4(5), can be enacted.

CHAPTER V

Delegated acts and implementing acts

Article 18

Exercise of the delegation

- (1) The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

- (2) The delegation of power referred to in Article 12(5) shall be conferred on the Commission for an indeterminate period of time from the date according to Article 23.
- (3) The delegation of power referred to in Article 12(5) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- (4) As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- (5) A delegated act adopted pursuant to Article 12(5) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 19

Committee procedure

- (1) For the adoption of implementing acts, the Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
- (2) Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
- (3) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VI

Final provisions

Article 20

Commission reports

- (1) By the fourth anniversary after entry into force according to Article 23 and every four years thereafter, the Commission shall submit a report on the evaluation and review of this Directive to the European Parliament and to the Council. The reports shall be made public.
- (2) In the context of the evaluations and reviews referred to in paragraph 1, the Commission shall examine, in particular, the application and functioning of:
 - a) Article 4(5) regarding the definition of support of extremism,

- b) Articles 6 to 11 concerning the European Internal Market Label,
 - c) Article 13 concerning the warning list as well as
 - d) Article 16 concerning the liability and the right to compensation.
- (3) For the purpose of paragraph 1, the Commission may request information from Member States and the national contact points.
- (4) In carrying out the evaluations and reviews referred to in paragraphs 1 and 2, the Commission shall take into account the positions and findings of the European Parliament, of the Council, and of other relevant bodies or sources.
- (5) The Commission shall, if necessary, submit appropriate proposals to amend this Directive, in particular taking into account developments in the area of extremism and their economic impacts, especially regarding the internal market.

Article 21

Review of other Union legal acts on internal market

The Commission shall, if appropriate, submit legislative proposals with a view to amending other Union legal acts on the prevention of the support of extremism, in order to ensure a uniform and consistent strategy

- a) against the negative effects of extremism for the internal market and
- b) for ensuring the functioning of the internal market also in the future.

Article 22

Implementation

- (1) Member States shall set the necessary laws and administrative provision into force to comply with the provisions of this Directive by [1st July 2018]. They shall forthwith inform the Commission thereof.
- (2) When Member States adopt measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
- (3) 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.

Article 23

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 24

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, [please add date].

ANNEX I**Guarantee Statement according to Article 12**

The Guarantee Statement according to Article 12 is as follows, whereas the boxes, marked with ‘*[name of the entity obliged to provide publication details according to Article 4(3)]*’ shall be replaced by the name of the entity obliged to provide publication details according to Article 4(3):

‘*[Name of the entity obliged to provide publication details according to Article 4(3)]* guarantees to reject any kind of extremism and reports without undue delay any kind of support of extremism according to Article 4(5) of the Directive [xxxxxx], as soon as *[name of the entity obliged to provide publication details according to Article 4(3)]* is aware of it, because *[name of the entity obliged to provide publication details according to Article 4(3)]* is convinced that

- women and men are equally dignified, equivalent and equal;
- all religions, as especially the Christian, the Jewish and the Muslim religion are equally dignified, equivalent and equal;
- people, whatever their faith is as well as people of no religious persuasion are equally dignified, equivalent and equal;
- people, whatever their sexual orientation is, thus in particular heterosexual, homosexual and transsexual people are equally dignified, equivalent and equal;
- physical punishment, as in particular the death penalty, is neither up to date nor compatible with European values, to which *[name of the entity obliged to provide publication details according to Article 4(3)]* explicitly commits herself/himself/itself;
- man-made law takes precedence over self-created, handed down or discovered contents, like the so called “Divine Right” or the “Natural Law”;
- state authorities have and should have priority over, in particular self-created, institutions that are not based on man-made law.’