

Dear Member of the European Parliament,



The conciliation phase for the “**Telecoms Package**” began informally last week. As you know, a contentious amendment – referred to as “**amendment 138**” – is now the only point of disagreement between the co-legislators. It has already been refused twice, with no official justification, by the Council of EU, while it was **adopted twice by 88% of the members of the Parliament**.

This amendment states that “*no restriction may be imposed on the fundamental rights and freedoms of end-users, without a prior ruling by the judicial authorities*”. This principle has been confirmed by the French Constitutional Council, who added, when ruling against the “three strikes” policy, that “*In the current state of the means of communication and given the generalized development of public online communication services and the importance of the latter for the participation in democracy and the expression of ideas and opinions, this right implies freedom to access such services.*”. France's highest jurisdiction affirmed what has become obvious to many EU citizens: the free **access to Internet content, services and applications is now irremediably tied to the proper exercise of fundamental rights**.

The fundamental rights status of access to the Internet has, in fact, also been accepted by the Council in the form of a recital, according to which restrictions on access to the Internet must be conform with the European Convention on Human Rights.

Yet, during last week's trialogue, the Council of EU just refused once again the original amendment, and proposed instead a watered-down version, where the essential, **core notion of “prior ruling by the judicial authorities”** was replaced by some vague, narrower wording.

As citizens, we are very much afraid of the motivations of the Council for removing this disposition. We need the European Parliament to give us clear safeguards against behaviors that would eventually be harmful for fundamental rights, and to remain strong, as it was in first and second reading.

We therefore urge you to ask your colleagues from the conciliation committee to **stand strong for the original amendment 138**, until the Council expresses officially its precise reasons for refusing the text. We are then convinced that there will be ways to address their good faith concerns by adapting the wording without altering the core of this essential safeguard for Europeans citizens' fundamental rights and freedoms.

You will find attached a memo debunking the generic arguments the Council gave informally so far. Amendment 138 is not too prescriptive regarding the judicial procedures that member States should follow, has its place in a directive limited to the field of electronic communications, could not be (ab)used by people who don't pay their bills, and could not hamper efforts against child pornography on the Internet.

We will continuously update you and your colleagues with analytical material on that matter, in hope it will help you in your pursuit of defending Freedom and general interest.

Sincerely,

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