

INCORPORATES THE POSITION OF THE MT GOVERNMENT

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IMPACT ASSESSMENT ON ILLEGAL CONTENT ONLINE STAKEHOLDER CONSULTATION: MEMBER STATES

Introduction:

Following the initial discussion with Member States at the EU Internet Forum (EUIF), the Commission would like to get more detailed views on possible actions to more effectively tackle terrorist content online as part of the ongoing work on the Impact Assessment on Illegal Content Online. These views will complement the Open Public Consultation (OPC, available [here](#)), as well as the data collection exercise based on the table of indicators.

The Commission started work on an impact assessment outlining potential problems, objectives and options in the attached Inception Impact Assessment (IIA). As part of the options to be considered, the Commission will analyse the current situation (baseline scenario) as well as actions to reinforce the voluntary measures as well as possible sector-specific legislation (including in particular on terrorism content online) as well as horizontal legislation applicable to all types of illegal content.

The measures presented in the Inception Impact Assessment¹ are initial ideas, and additional actions and options could be considered. The actions to be undertaken would be mainly addressed to online platforms, but could also require further action by Member States.

Member States are kindly requested **to reply to the questions below and provide any additional considerations in writing by 13 June 2018**. The results of this questionnaire will be presented and discussed at the **forthcoming meeting on 15 June**. In parallel, the European Commission's Directorate-General for Communications Networks, Content and Technology convened its expert group under the eCommerce Directive also feeding into the work of the impact assessment.

¹ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-1183598_en

Questions

I. Problem and baseline scenario

1. What are the **provisions, arrangements etc under national law addressing the removal of terrorist content² for preventive purposes** (e.g. do you have duty of care provisions³, specific notice and action procedures, provisions on transparency of companies' actions in relation to the removal of terrorist content, provisions on safeguards, etc.)? Please indicate below – where relevant – the applicable laws or other legal documents.

Malta currently does not have specific domestic legislation addressing the removal of terrorist content for preventive purposes. In the case of specific local investigations, the general criminal procedure law is used, whereby a warrant of arrest, search and seizure may be requested and obtained in order to take executive action. The safeguards generally applicable in terms of the procedure for obtaining the warrant from a judicial authority would apply.

Notice and action procedures	N/A
Transparency rules	N/A
Safeguards	N/A

Do you have **specialised entities that notify/refer terrorist content** to hosting service providers? What is the **legal basis and benchmark for notification/referral** (illegality of content, terms of service of hosting service provider)?

Malta has an Open-source intelligence (OSINT) office and when flagrant terrorist content is detected on the web, this is referred to the service providers concerned for their necessary action.

² For the purpose of this questionnaire, "terrorist content" is defined as in the Commission Recommendation of 1.3.2018 on measures to effectively tackle illegal content online (C(2018) 1177 final).

<https://ec.europa.eu/digital-single-market/en/news/commission-recommendation-measures-effectively-tackle-illegal-content-online>

³ See recital 48 of the Directive on electronic commerce

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32000L0031>