

## **Attachment: Comments by Austria**

### **Page 38, para 4:**

Stop Line is operated by the Internet Service Providers Austria (ISPA). However, their task is not monitoring the Internet. Stopline provides for civilians on its website a way to easily and efficiently report content linked with child pornography or Nazism. After the report has been submitted to Stopline, their staff checks whether the material is actually illegal according to Austrian law. If it is illegal Stopline immediately contacts the responsible executive authority, the affected Austrian ISP and the foreign partner hotlines within INHOPE, which is a network of hotlines against illegal content on the internet (see also page 57 of the report which refers to the procedure).

Furthermore in this context only „stopline.at“ is mentioned. A reference to the “NS-Meldestelle” ([http://www.bmi.gv.at/cms/bmi\\_verfassungsschutz/meldestelle/](http://www.bmi.gv.at/cms/bmi_verfassungsschutz/meldestelle/), ns-meldestelle@bvt.gv.at) is missing. They are not only responsible for notices concerning cyber but also for general notices.

### **Page 39, para 4:**

In English the name of the Bundesamt für Verfassungsschutz und Terrorismusbekämpfung (BVT) is wrong. Correct would be „Federal Agency“ or „Federal Agency for State Protection and Counter Terrorism“.

We suggest to cancel the sentence „Such a simple notice [...]“, because forwarding notices from stopextremists@bmi.gv.at cannot be based on the SPG. Furthermore the correct translation of the SPG (Sicherheitspolizeigesetz) is „Security Police Act“. This last comment applies throughout the text (i.e. also Footnote 19).

### **Page 40 – Footnote 13:**

Footnote 13: it should read Fritz/Zeder. *Rahmenbeschluss* should be translated with “Framework Decision”. This Article refers to a proposal of the Commission on a Framework Decision, COM (2009) 135; after entry into force of the Lisbon Treaty the

Directive 2011/93/EU was adopted by 13.12.2011 which refers in the Art. 25 to the removal of child pornography material on the Internet.

**Page 42, para 1 – Footnote 19:**

In Footnote 19 the information is missing about which “preparatory documents” are meant (see para 1).

**Page 45:**

Here arises the impression that Austria did not have mandatory legal standards to address content such as terrorist or racist propaganda or child pornography although already mentioned and presented in the chapter "Sources and Overview" (page 39, second paragraph) and in the chapter on the media law (page 49, second paragraph).

**Page 52, para 5 and 6:**

We suggest to cancel the sentence „We would rather say that the measure is covered [...]“ because forwarding notices from stopextremists@bmi.gv.at cannot be based on the SPG.

**Page 54, para 5:**

This paragraph should be reworded since the ECJ already decided this case as mentioned on the next page.

**Page 55 last paragraph:**

Again, the reader is given the impression that Stoplevel performs itself the "take-down" or "blocking" (see: "However, it is not clear how the internal decision of the ISPA Could be appealed to a state court."). As already stated above the reports are

only sent to the executive, ISP or a partner agency when the contents were found to be illegal. Hence the subsequent sentence should "such appeal must be possible" shall be deleted, especially as the ISPA is not engaging in the fundamental right to freedom of expression. The other sentences of this paragraph are of course to be read in this context.

**Page 56, para 5 and 6:**

The Federal Ministry of Justice has no special units. The reference in FN 107 mentions the "Ministry of the Interior" and should therefore also be mentioned in the text. In general the reference mentions the incorporated hotlines (*Meldestellen*) within the Criminal Intelligence Service Austria (*Bundeskriminalamt*). Everybody may report anonymously, simple and un-bureaucratic potentially illegal activities. The text may be revised also in this context.

Especially a reference to the "NS-Meldestelle" [ns-meldestelle@bvt.gv.at](mailto:ns-meldestelle@bvt.gv.at) is missing.

**Page 56 – Footnote 110:**

The NS-Meldestelle which is mentioned above is also based on this parliamentary resolution.

**Page 57, para 5:**

The law was adopted on 27.01.2016 by simple majority in the parliament. All comments which indicate a state of draft are therefore obsolete. In English currently the term "State Protection Act" is used; so far there is no official translation. Most probably the law will come into force on 1 July 2016.