

Opinion of the Slovak Republic
on the Comparative Study on blocking, filtering and take-down of illegal internet
content – country report Slovakia
(1/04/2016)

The Slovak Republic has the honour to provide its opinion to the document entitled Comparative Study on blocking, filtering and take-down of illegal internet content which was prepared by the Swiss Institute of Comparative Law.

With regard to the situation in the Slovak Republic, the Study has been drafted at the highly professional level reflecting the existing legal framework and addressing the critical areas. The Study contains a complex list of acts directly or indirectly applicable for the purpose of blocking, filtering or take-down of illegal internet content. The Study also points to the fact that different acts can be used as the basis for blocking or filtering.

Taking into account the time gap between drafting the Study and its publication the Study does not reflect some recent developments in this area. For example, as of 1 January 2016 the new Copyright Act came into effect (Act no. 185/2015 Coll.). With regard to the “Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse“ we would like to point out the fact that the Convention was ratified by the Slovak Republic on 1 March 2016 and comes into force on 1 July 2016.

Some expressions in the Study reflect subjective opinion of the author which might lead to biased description of the real situation. For example, Section 415 of the Civil Code, in our view, is not related to the subject of the Study. Conclusion of the author provided in Section 2.2 of the Study regarding the transposition of the e-Commerce Directive is, in our opinion, inappropriate for this type of Study.

With regard to the footnote 12 we would like to clarify that the Act no. 2015/2004 Coll. deals with the protection of “classified” rather than “confidential” information.

With regard to Section 4 “General Monitoring of Internet“, we would like to add, that the Computer Crime Department was established within the Criminal Police Bureau of the Presidium of the Police Force in July 2013. Among the competences of the Computer Crime Department are attacks to computer systems, online child abuse and credit card fraud. The Department participates in the project STOPLINE.SK implemented by a civic association called "eSlovensko", member of the INHOPE network. The project STOPLINE.SK has been active since 2010. Aim of the project is to operate a national centre for reporting of illegal and inappropriate content and activity on internet. Online reporting form is available as part of the project. The form can be used by the general public to report illegal or suspicious content on internet in order to combat child abuse cases such as child pornography, sexual exploitation, child prostitution, child trafficking or grooming, or other types of content or activities with criminal character such as xenophobia and racism. Once received, the reports are consequently distributed to individual INHOPE Member States. When it is undoubtedly confirmed that the report points to the illegal content or activity originated from the Slovak Republic, the Police Force takes proper measures in order to prevent this activity. Work of the centre is based on the program of the European Commission “Safer Internet Plus”, Council Decision to combat child pornography on the Internet (2000/375/JHA), Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child

pornography, United Nations Convention on the Rights of the Child and relevant provisions of the Act no. 300/2005 Coll. (Penal Code).

It should be noted that the author does not discuss preventive measures. On that ground findings of the Evaluation report on the seventh round of mutual evaluations "*The practical implementation and operation of European policies on prevention and combating Cybercrime*", doc. No. 9761/1/15 REV 1 DCL1 GENVAL 18 CYBER 52. provided by the Council of the EU should be taken into consideration. In particular special training of prosecutors, active approach in the field of media literacy in the context of life-long education and training materials for youngsters with studies prepared by non-profit organizations such as eSlovensko are some of the most important examples.

Although a standard interpretation of blocking, filtering and take-down has been assisted in certain cases by the Court of Justice of the European Union, the law of the European Union and international treaties, it cannot yet be said that the Slovak Republic has a comprehensive substantive and procedural framework in this area. On the other hand, the very small number of applications for the blocking, filtering and take-down of illegal content on the Internet in the Slovak Republic could be taken as an indication that there is not yet any need for more detailed legislation in this area, though this could change in the near future. The similar conclusions have been confirmed by the Study.

The Study provides an interesting, comprehensive survey and is a valuable source of information on national practice in the fight against illegal internet content and its dissemination. In addition, we welcome complex approach of the study taken which compares legal framework in the Council of Europe Member States and refers to existing national case law as well as to jurisprudence of international courts thereby identifying common interfaces on blocking, filtering and take-down of illegal internet content in the Council of Europe Member States.