

Comments on the country report regarding Spain of the Comparative Study on blocking, filtering and take-down of Internet content

(05/04/2016)

Regarding the country report of Spain, we have the following comments:

- Page 633, paragraph 2: we propose to include a reference of the Attorney General Circular of December 21, 2015 (Circular 8/2015 de la Fiscalía General del Estado). This Circular instructs the Attorneys on how to implement the new Intellectual Property Law in order to effectively tackle infringements of intellectual property rights. In particular, the new Circular provides criteria as regards the public character of linking activities, the notion of indirect economic benefit, the multiplying effect of online infringement and subsequent penalties, or the non-exhaustive character of the list of infringements conducts reflected in the law, among other.
- Page 634, paragraph 1, Internet codes of conduct: we propose to include also a reference to article 158 ter, 8 of the Intellectual Property Act, which came into force in January 1, 2015. This article includes the following reference: *“Podrán desarrollarse códigos de conducta voluntarios en lo referido a las medidas de colaboración de los servicios de intermediación, los servicios de pagos electrónicos o de publicidad previstas en este artículo”*.
- Page 641, paragraph 2: the reference made to article 455 of the Civil Procedure Act should be done to article 80.1.b) of the LPCA (Administrative Proceedings Act, Ley 29/1998) which indicates the following: *“el recurso contra el Auto será el de apelación en un solo efecto, es decir, ante el mismo Juzgado”*.
- Footnote 79, page 642: we propose the following reference: **“There are several national CSIRTs in Spain, one of which is the National Cryptology Centre, responsible for assisting and cooperating with the public administrations authorities on cyber security matters: <https://www.ccn-cert.cni.es/> , other is the CERT-SI, assisting the cyber protection of Critical Infrastructures <https://www.incibe.es/CERT/Infraestructuras Criticas/> and supporting the services provided to citizens and families via <https://www.osi.es/>. There is also the Internaut Security Office, whose Internet site is at: <https://www.osi.es/>. There are also a number of Spanish public and private CERTs from regional governments, financial or insurance institutions or telecom and security companies that participate in the activities of First (<https://www.first.org/>)”**
- Page 642, paragraph 4: we propose the following reference: **“~~The Council’s remit includes protecting the material and immaterial technological intellectual property heritage and prevention, detection, reaction, analysis, investigation and coordination in the face of terrorist and criminal activities on the Internet. It also~~ The Council organizes cooperation between bodies departments with responsibilities in the cyber security field in Spain, such as ministries and the CERTs-CSIRTs (Computer Security Incident Response Teams).”**