

The Hague, ^{December} 2 November 2020

Joint Parliamentary Scrutiny Group Secretariat

To the attention of the JPSG Co-Chairs

By email only:

jpsg.libesecretariat@europarl.europa.eu

Europol reply to written questions from the Member of the European Parliament (MEP), Mr Patrick Breyer, to the Joint Parliamentary Scrutiny Group (JPSG)

Dear Co-Chairs,

In accordance with Article 4.2 of the JPSG Rules of Procedure and Article 51 of the Europol Regulation, Europol would like to respond to the question raised by JPSG members, Mr Breyer, received by Europol on 30th October 2020 as follows:

Written questions by the MEP Mr Patrick Breyer

1) What percentage of terrorist content referred by Europol or via the Europol system was taken down by hosting service providers in 2019?

Europol answer:

As reported in the 2019 Consolidated Annual Activity Report (CAAR) provided to the European Parliament, in 2019, Europol's EU Internet Referral Unit (IRU) systematically monitored more than 360 online platforms and assessed more than 25,000 online contents, with a referral rate of 99%. The rate of successful removals of terrorist content could not be measured accurately in 2019, due to technological limitations of IRMa (Internet Referral Management application), which is Europol's technical solution to support the referral capability to hosting service providers.

Europol is currently developing a new automated solution (PERCI: Plateforme Européenne de Retraits de Contenus illicites sur Internet/European platform for takedown of illicit content online), which among other features, is envisioned to support the automated calculation of success rates of referred terrorist content.

2) How many referrals by Europol or via its referrals system have later turned out to erroneously pertain to or include legal content? Can you give examples?

Europol answer:

In accordance with the principles set out in the EU Directive 2017/541 on combatting terrorism, the EU IRU assesses content against Europol's mandate and performs a manual evaluation of the content. Following this

assessment, the content is flagged to online service providers (OSPs) with a request to review it against their terms and conditions. The referral of content to OSPs does not constitute an enforceable act. Thus, the decision and removal of the referred content is taken by the concerned service provider under their own responsibility. The OSPs are not obliged to send feedback or provide any information regarding their assessment of Europol's referrals. Therefore, Europol is not in position to provide examples or know how many referrals may have been assessed by OSPs to erroneously pertain to or include legal content.

3) Is content being referred via the Europol system that may violate terms of service but does not constitute a criminal offence in the sense of the Directive on combatting terrorism? Do referral units make sure that all referred content is unlawful?

Europol answer:

The assessment and referral of content by Europol is always in line with the principles of the EU Directive 2017/541 on combatting terrorism. The referrals of terrorist content are focused on branded propaganda releases, formally endorsed by media outlets of designated terrorist organisations (such as Al-Qaeda, the Islamic State, Hay'at Tahrir al-Sham), including their affiliate groups, and individual supporters of these groups.

Europol is not in a position to respond on behalf of the Member States regarding the content that they refer to OSPs via IRMa, as the EU IRU does not participate in the assessment process of IRUs established at national level with respect to referred terrorist content online.

4) Does Europol report terrorist content that likely constitutes a criminal offence to the competent law enforcement authority for prosecution?

Europol answer:

Yes. Whenever a link can be established between the detected terrorist propaganda and a criminal offence in the jurisdiction of a Member State, the latter's competent law enforcement authorities are notified.

5) Are there any hosting service providers that are based in the Union or have a representation here which systematically refuse to take down terrorist content referred to them? If so roughly how many? What size are these non-cooperative providers, how much terrorist content are they hosting and how large is their audience (viewers) typically?

Europol answer:

The EU IRU engages with a large number of online service providers that take part in global initiatives against Terrorist Content Online (TCO), namely the EU Internet Forum, where the EU IRU is a key stakeholder, and the Global Internet Forum on Counter Terrorism (GIFCT). These fora allow for a platform of communication and exchange of best practices with all relevant stakeholders and involved OSPs, on topics related to content detection and removal, resilience mechanisms and pro-active measures, crisis response, research on current and future trends, as well as policy and legislative aspects.

As terrorists demonstrate continuous adaptability and exploit the potential of any tech service of any size, the EU IRU needs to continuously expand its outreach and engage with newly exploited OSPs to inform about the extent of the abuse and offer support. The first outreach to the affected OPSs is

initiated in the context of the referral process. Unfortunately, Europol currently does not have the technical capability and the necessary resources to monitor consistently the progress and outcome of the referral requests. Thus, we are not in position to conclusively state whether any OSP systematically refuses to take down terrorist content referred to them. However, the new technical solution PERCI, which is currently being developed, is envisioned to support this capability.

I hope that these answers will prove satisfactory. Europol remains available for further clarifications.

Yours sincerely,



Jürgen Ebner
Deputy Executive Director of Governance