

Alicante News February 2018

March 01, 2018 [About the EUIPO](#)

Alicante News February 2018

The latest edition is out now.

The aim of Alicante News is to provide up-to-date information on EUIPO-related matters, as well as on other general IP issues, to the users of the EU trade mark and design registration systems.



In this issue:

- DesignEuropa Awards: Apply or nominate before 15 May!
 - Design filing – Tips & best practices for minimizing objections
 - The Economic Cost of IPR Infringement in the Tyres and Batteries Sectors
 - Change of EUIPO bank account for payment of fees
 - EUIPO performance update: Q4 2017
-

Number of asylum decisions surpasses number of applications in EU+ countries

Monthly applications by Georgian citizens increased by 113% since September 2017

Despite the issuing of a high number of asylum decisions by national asylum systems in the EU+ and a resulting decrease in backlog, nearly half a million cases remain pending.

In January 2018, some 54,000 applications for international protection were lodged in the 28 European Union Member States, plus Norway and Switzerland (EU+). Despite issuing close to 60,000 decisions in the first instance, approximately 450,000 cases were still awaiting a decision. Even though these numbers are lower than for most of 2017, the figures indicate that the asylum situation in Europe is still not completely clear from the effects of the spike in applications in 2015-2016.

Together, EU+ countries are issuing more first-instance decisions on asylum cases than the number of new applications that are being submitted, which reflects the success of the investment that Member States are making into backlog management and the continued focus on decision-making capacity in some countries. Consequently, there was a decrease in the number of pending cases, down from approximately a million in late 2016 to less than half a million at the end of January 2018.

A third of all applications for international protection in the EU+ were submitted by citizens of just five countries: Syria, Iraq, Afghanistan, Nigeria and Pakistan. The number of Syrian applicants reached the lowest monthly number since February 2014, while some other nationalities increased.

Of significance in the figures for January 2018, data shows that Georgians became the sixth most common citizenship among all applications in the first instance. The figures indicate that Georgians have been applying for asylum in increasing numbers since a Visa-Liberalisation agreement for travel in the Schengen Area took effect in March 2017. Reflecting this increase, in January 2018 applications more than doubled (an increase of 113%) the number registered four months earlier (from 874 in September 2017 to 1,859 in January 2018). Despite the increased numbers of applications and resulting pressure exerted on national systems, just 3% of Georgians who applied for asylum in the EU+ were granted either refugee status or subsidiary protection in 2017.

A recently-launched EASO interactive portal, which will shortly be updated with data from January 2018, allows users to visualise data on asylum applications, as well as on decisions and the number of pending cases in the EU+: www.easo.europa.eu/latest-asylum-trends.

Any further information may be obtained from the European Asylum Support Office on the following email address: press@easo.europa.eu

A Europe that protects: Commission reinforces EU response to illegal content online

In its Communication of September 2017 on **tackling illegal content online**, the European Commission promised to monitor progress in tackling illegal content online and assess whether additional measures are needed to ensure the swift and proactive detection and removal of illegal content online, including possible legislative measures to complement the existing regulatory framework.

As a follow-up, the Commission is today recommending **a set of operational measures** – accompanied by the necessary safeguards – to be taken by companies and Member States to further step up this work before it determines whether it will be necessary to propose legislation. These recommendations apply to all forms of illegal content ranging from terrorist content, incitement to hatred and violence, child sexual abuse material, counterfeit products and copyright infringement.

The Recommendation builds on the on-going work with the industry through various voluntary initiatives to ensure that the internet is free of illegal content and reinforces actions taken under different initiatives.

Vice-President for the Digital Single Market Andrus **Ansip** said: *“Online platforms are becoming people’s main gateway to information, so they have a responsibility to provide a secure environment for their users. What is illegal offline is also illegal online. While several platforms have been removing more illegal content than ever before – showing that self-regulation can work – we still need to react faster against terrorist propaganda and other illegal content which is a serious threat to our citizens’ security, safety and fundamental rights.”*

The spread of illegal content online undermines the trust of citizens in the Internet and poses security threats. While progress has been made in protecting Europeans online, platforms need to redouble their efforts to take illegal content off the web more quickly and efficiently. Voluntary industry measures encouraged by the Commission through the EU Internet Forum on terrorist content online, the Code of Conduct on Countering Illegal Hate Speech Online and the Memorandum of Understanding on the Sale of Counterfeit Goods have achieved results. There is however significant scope for more effective action, particularly on the most urgent issue of terrorist content,

which presents serious security risks.

Stronger procedures for more efficient removal of illegal content

Today's Recommendation sets out **operational measures** to ensure faster detection and removal of illegal content online, to reinforce the cooperation between companies, trusted flaggers and law enforcement authorities, and to increase transparency and safeguards for citizens:

- **Clearer 'notice and action' procedures:** Companies should set out easy and transparent rules for notifying illegal content, including fast-track procedures for 'trusted flaggers'. To avoid the unintended removal of content which is not illegal, content providers should be informed about such decisions and have the opportunity to contest them.
- **More efficient tools and proactive technologies:** Companies should set out clear notification systems for users. They should have proactive tools to detect and remove illegal content, in particular for terrorism content and for content which does not need contextualisation to be deemed illegal, such as child sexual abuse material or counterfeited goods.
- **Stronger safeguards to ensure fundamental rights:** To ensure that decisions to remove content are accurate and well-founded, especially when automated tools are used, companies should put in place effective and appropriate safeguards, including human oversight and verification, in full respect of fundamental rights, freedom of expression and data protection rules.
- **Special attention to small companies:** The industry should, through voluntary arrangements, cooperate and share experiences, best practices and technological solutions, including tools allowing for automatic detection. This shared responsibility should particularly benefit smaller platforms with more limited resources and expertise.
- **Closer cooperation with authorities:** If there is evidence of a serious criminal offence or a suspicion that illegal content is posing a threat to life or safety, companies should promptly inform law enforcement authorities. Member States are encouraged to establish the appropriate legal obligations.

These measures may differ according to the nature of the illegal content, and the Recommendation encourages companies to follow the principle of proportionality when removing illegal content.

Increased protection against terrorist content online

Terrorist content online poses a particularly grave risk to the security of Europeans, and its proliferation must be treated as a matter of the utmost urgency. This is why the Commission is today additionally recommending more specific provisions to further **curb terrorist content online**:

- **One-hour rule:** Considering that terrorist content is most harmful in the first hours of its appearance online, all companies should remove such content within one hour from its referral as a general rule.
- **Faster detection and effective removal:** In addition to referrals, internet companies should implement proactive measures, including automated detection, to effectively and swiftly remove or disable terrorist content and stop it from reappearing once it has been removed. To assist smaller platforms, companies should share and optimise appropriate technological tools and put in place working arrangements for better cooperation with the relevant authorities, including Europol.
- **Improved referral system:** Fast-track procedures should be put in place to process referrals as quickly as possible, while Member States need to ensure they have the necessary capabilities and resources to detect, identify and refer terrorist content.
- **Regular reporting:** Member States should on a regular basis, preferably every three months, report to the Commission on referrals and their follow-up as well as on overall cooperation with companies to curb terrorist online content.

Next steps

The Commission will monitor the actions taken in response to this Recommendation and determine whether additional steps, including, if necessary legislation, are required.

The Commission will also continue its analytical work, working closely with stakeholders, and in this context will launch a public consultation on this matter in the coming weeks.

In order to allow for the monitoring of the effects of the Recommendation, Member States and companies will be required to submit relevant information on terrorist content within **three months**, and other illegal content within **six months**.

Background

The European Union has responded to the challenge of illegal content online through both binding and non-binding measures, in sectoral and horizontal initiatives. Ongoing work under sectorial dialogues with companies shows positive results. For instance, under the Code of Conduct on Countering

Illegal Hate Speech Online, internet companies now remove on average 70% of illegal hate speech notified to them and in more than 80% of these cases, the removals took place within 24 hours. However, illegal content online remains a serious problem with great consequences for the security and safety of citizens and companies, undermining the trust in the digital economy.

Following the [European Council conclusions](#) of June 2017 and building on the various dialogues with industry, in September 2017, the Commission provided guidance and outlined common tools to swiftly and proactively detect, remove and prevent the reappearance of illegal content inciting hatred, violence and terrorism online. The Commission also indicated that other measures may be needed to take illegal content off the web, including legislative measures. Since then, the Commission has been urging online platforms to step up and speed up their efforts to prevent, detect and remove illegal online content, in particular terrorist related, as quickly as possible.

For More Information

[Memo](#): Frequently asked questions: Commission Recommendation on measures to effectively tackle illegal content online

[Factsheet](#) on Illegal Content Online

[Press release](#): Security Union: Commission follows up on terrorist radicalisation

[Statement](#): Removing illegal content online: Commission calls for more efforts and faster progress from all sides

[Press release](#): Security Union: Commission steps up efforts to tackle illegal content online

[Communication](#): Tackling illegal content online – towards an enhanced responsibility of online platforms

[Press release](#): Social media companies need to do more to fully comply with EU consumer rules

[Commission Recommendation on measures to effectively tackle illegal content online](#)

In its Communication of September 2017 on **tackling illegal content online**, the European Commission promised to monitor progress in tackling illegal content online and assess whether additional measures are needed to ensure

the swift and proactive detection and removal of illegal content online, including possible legislative measures to complement the existing regulatory framework. As a follow-up, the Commission is today recommending **a set of operational measures** – accompanied by the necessary safeguards – to be taken by companies and Member States to further step up this work before it determines whether it will be necessary to propose legislation. These recommendations apply to all forms of illegal content ranging from terrorist content, incitement to hatred and violence, child sexual abuse material, counterfeit products and copyright infringement.

Terrorist content is most harmful in the first hours of its appearance because of its fast spreading and entails grave risks to citizens and society at large. Given this urgency, and in view of calls from EU leaders and international organisations such as the United Nations and the G7, the Recommendation puts particular emphasis on terrorist material: it should be removed within one hour after it has been flagged to the platforms by law enforcement authorities as well as Europol.

This builds on the on-going work with the industry through various voluntary initiatives to ensure that the internet is free of illegal content and reinforces actions taken under different initiatives.

What is considered illegal content online?

What is illegal offline is also illegal online. Illegal content means any information which is not in compliance with EU law or the law of a Member State. This includes terrorist content, child sexual abuse material ([Directive on combating sexual abuse of children](#)), illegal hate speech ([Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law](#)), commercial scams and frauds (such as [Unfair commercial practices directive](#) or [Consumer rights directive](#)) or breaches of intellectual property rights (such as [Directive on the harmonisation of certain aspects of copyright and related rights in the information society](#)).

Terrorist content is any material which amounts to terrorist offences under the EU [Directive on combating terrorism](#) or under national laws – including material produced by, or attributable to, EU or UN listed terrorist organisations.

What is the link between this Recommendation and the guidelines the Commission presented in September 2017?

The objective of this Recommendation is to give effect to the political guidelines set out in the [Communication](#) on tackling illegal content online presented by the Commission in September 2017. The guidelines remain valid.

Today's Recommendation takes the work one step further and formally lays down the operational measures that should be taken by the companies and Member States regarding the detection and removal of illegal content through

reactive (so called 'notice and action') or proactive measures. It contains precise definitions of the various aspects of countering illegal content online. It constitutes a further step in the recognition of trusted flaggers for fighting illegal content and recommends on how notice and action and proactive measures – including automated tools – can be implemented across the EU to facilitate removal of illegal content, while adopting appropriate safeguards in terms of counter-notice, transparency and reporting.

For terrorist content online, the Recommendation recalls the priorities established under the EU Internet Forum to eliminate terrorist content from the internet, and clarifies the responsibilities of companies and the type and scope of measures they should take– especially concerning reactive measures (notably referrals from competent authorities and Europol), but also regarding proactive measures. The Recommendation sets out clear mechanisms for submitting and processing referrals, for the effective detection and identification of terrorist content, and for preventing its re-appearance, including specific indications as to the time limits (one hour from the notification) for assessment and subsequent actions to remove content – such as referrals submitted by the EU Internet Referral Unit (IRU) at Europol and Member States' referral units for which fast-track procedures should be provided.

Finally, following the calls by EU leaders, the Recommendation advises regular and transparent reporting by the internet platforms on actions taken and their tangible impact. This will help assess and consolidate progress made and inform any decision on whether additional measures are needed to step up action against terrorist content, as announced in the Commission [Communication](#) from September 2017 and reiterated in the latest [report](#) on the Security Union.

What does the Commission expect from online platforms in terms of preventing, detecting and removing all forms of illegal content online?

The Recommendation specifies the mechanisms for flagging illegal content which online platforms should put in place, as well as details on how notices of illegal content should be processed (notice and action procedures). Online platforms are also encouraged to take proactive measures to identify and remove illegal content, including automated means such as upload filters, where this is appropriate.

In addition, the Recommendation encourages online platforms to cooperate with Member States, trusted flaggers and among themselves to work together and benefit from best practices. This will help smaller companies to tackle illegal content.

The Recommendation also requires from online platforms a range of transparency measures, including on their content policy, as well as regular reporting on their actions taken as regards illegal content. This will also allow regulators to understand if the proposed measures are effective.

Why does the Recommendation differentiate between terrorist content and other illegal content online?

Complementary recommendations specifically relating to terrorist content are needed in view of the particularly urgent risks to citizens and society associated with terrorist content. The dissemination of such content is used to radicalise and recruit and to procure funding for terrorist activities, to prepare, instruct and incite attacks.

This Recommendation addresses the need for proactive measures as well as the required speed of assessment and action against terrorist content, which is particularly harmful in the first hours of its appearance online. This is in line with the Commission's view that sector-specific differences should be taken into account where appropriate and justified.

The Recommendation builds on and consolidates the progress already achieved under the EU Internet Forum – a key deliverable of the [European Agenda on Security](#) – whilst recognising the urgent need for a swift and more comprehensive response. This was reiterated by the [European Council of 22-23 June 2017](#), stating that it *"expects industry to [...] develop new technology and tools to improve the automatic detection and removal of content that incites to terrorist acts. This should be complemented by the relevant legislative measures at EU level, if necessary."* Similarly, the European Parliament, in its [resolution on Online Platforms of June 2017](#), urged platforms *"to strengthen measures to tackle illegal and harmful content"*, while calling on the Commission to present proposals to address these issues.

What should be the process of removing terrorist content online?

In line with actions agreed under the [EU Internet Forum](#), the Recommendation identifies a number of measures to effectively stem the uploading and sharing of terrorist propaganda online. These include:

- **Improved referral system:** Special mechanisms for the submission of and follow-up to referrals from competent authorities – as well as Europol's Internet Referral Unit – should be put in place along with fast-track procedures to remove content within one hour of its referral. At the same time, Member States need to ensure they have the necessary capabilities and resources to detect, identify and notify terrorist content to internet platforms.
- **One-hour rule for referrals:** Considering that terrorist content is particularly harmful in the first hours of its appearance online, companies should as a general rule remove such content within one hour of its flagging by law enforcement authorities and Europol.
- **Faster proactive detection and effective removal:** Proactive measures, including automated detection, are needed to effectively and swiftly detect, identify and expeditiously remove or disable terrorist content

and stop it from reappearing once it has been removed. Companies should share and optimise appropriate technological tools and put in place working arrangements for better cooperation with the relevant authorities, including Europol.

- **Safeguards:** To accurately assess the referred terrorist content, or content identified via automated tools, companies need to put in place necessary safeguards – including a human review step before content is removed, so as to avoid unintended or erroneous removal of content which is not illegal.

It is important to note that to fully address the challenge of terrorist content online, reducing the accessibility of terrorist propaganda is only one side of the response. The other consists of supporting credible voices to disseminate positive alternative or counter narratives online. To this end, the Commission launched the [Civil Society Empowerment Programme](#) (CSEP) under the EU Internet Forum, providing capacity-building and funding to civil society partners to develop such narratives.

What are the safeguards to ensure fundamental rights?

It is essential that any measures taken to tackle illegal content online are subject to adequate and effective safeguards to ensure that the online platforms prevent the unintended removal of content which is not illegal.

First, the Recommendation calls online platforms to act in a diligent and proportionate manner towards the content they host, especially when processing notices and counter-notices and deciding on the possible removal of or disabling of access to content considered to be illegal.

Particular safeguards, notably human oversight and verifications, should be provided when online platforms use automated techniques to remove content ('Human-in-the-loop' model), as it requires an assessment of the relevant context to determine whether or not the content is to be considered illegal.

Second, the Recommendation invites online platforms to give the opportunity to those who provided content that was removed to contest this decision via a counter-notice. This will allow that content that was erroneously removed can be reinstated.

Third, the Recommendation calls for online platforms to regularly publish reports explaining to the general public how they apply their content management policies.

Will the Recommendation apply to big and small online platforms? Will small platforms benefit from any support to remove illegal content?

The Recommendation will apply to all platforms, big and small, as increasingly smaller platforms have become a soft target for illegal content

online, notably for terrorist content. However, the Recommendation pays a specific attention to small platforms, by asking for proportionate measures and recognising that some platforms have only limited resources and expertise.

The Commission recommends enhanced cooperation between online platforms to share experiences and technological solutions, in particular to assist smaller platforms in implementing the Recommendation concerning illegal and especially terrorist content.

Is the Recommendation modifying the e-Commerce Directive from 2000 which exempts online intermediaries from liability for the content they manage under certain conditions?

No. The legal text is without prejudice to the e-Commerce Directive and the liability provisions it contains. The Commission stated in its 2016 Communication on online platforms that it commits itself to maintaining a balanced and predictable liability regime for online platforms, as a key regulatory framework is essential to preserve digital innovation across the Digital Single Market.

The Recommendation is a non-binding measure and cannot modify the EU acquis. However, it builds on the scope set by the e-Commerce Directive, regarding the possibility for self-regulatory efforts by the industry or the possibility by Member States to establish specific requirements to remove illegal content online.

What are the links between the Recommendation and the EU audiovisual media services rules that aim protecting minors online?

The Recommendation is without prejudice of the current negotiation on the revision of the Audiovisual Media Services Directive (AVMSD). It is complementary to the revision as the AVMSD includes dedicated legislative measures for protecting minors online, making sure that social media platforms protect them from harmful content and all citizens against hate speech. Detailed measures include tools for users to report and flag harmful content, age verification or parental control systems.

What are the next steps?

The Commission will closely monitor the actions taken by the online platforms in response to this Recommendation and determine whether additional steps, including legislation, are required. The Commission will continue [analysing the progress made](#) and will launch a public consultation in the coming weeks.

Member States and companies have to submit relevant information on the removal of **terrorist content** within three months, and **illegal content** within six months.

For **terrorist content online**, the EU Internet Forum will continue its voluntary cooperation to progress on its ambitious Action Plan to combat terrorist content online, covering the use of automated detection of such illegal content, sharing related technology and tools with smaller companies,

achieve the full implementation and use of the 'database of hashes', and empowering civil society on alternative narratives.

On **child sexual abuse material**, the Commission will continue to work with Member States in the implementation of the child sexual abuse directive and will keep supporting the WeProtect Global Alliance to End Child Sexual Exploitation Online and the commitments of States and Industry partners in that framework.

For consumer protection, the Commission is currently working with several online platforms to improve the **safety of products** sold online. Further voluntary commitment is expected from the platforms to improve product safety beyond their legal obligations.

The Commission will continue to monitor the implementation of the Code of Conduct on countering **illegal online hate speech** by the participating IT companies with the help of civil society organisations. The goal is to extend the initiative to further online platforms. The Recommendation builds on the progress made under the Code and complements it by addressing issues such as transparency and user feedback.

The Commission put forward an **Intellectual Property** package, including guidance on the [Directive on the enforcement of intellectual property rights](#). It will also continue to work on the establishment of Memoranda of Understanding with different intermediaries to find concrete solutions for the removal of **counterfeited goods** online.

For More Information

[Press release](#): A Europe that protects: Commission reinforces EU response to illegal content online

[Factsheet](#) on Illegal Content Online

[Recommendation, Inception Impact Assessment and other useful links](#)

[Press release](#): Security Union: Commission follows up on terrorist radicalisation

[Statement](#): Removing illegal content online: Commission calls for more efforts and faster progress from all sides

[Press release](#): Security Union: Commission steps up efforts to tackle illegal content online

[Communication](#): Tackling illegal content online – towards an enhanced responsibility of online platforms

Press release: Link renewable energy better with rural policies, say EU Auditors

[Download PDF](#)