



Brussels, 2 December 2016
(OR. en)

15122/16

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NOTE

From: Presidency
To: Council
Subject: Code of conduct on countering illegal hate speech online

On the 31 May 2016, the Commission presented together with Facebook, Microsoft¹ Google (YouTube) and Twitter a "Code of conduct on countering illegal hate speech online". The main commitments include that:

- Upon receipt of a valid removal notification, the IT Companies review such requests against their rules and community guidelines and where necessary national laws transposing the Framework Decision 2008/913/JHA², with dedicated teams reviewing requests.
- The IT Companies review the majority of valid notifications for removal of illegal hate speech in less than 24 hours and remove or disable access to such content, if necessary.

¹ Microsoft-hosted consumer services, as relevant.

² Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law OJ L 328, 6.12.2008, p. 55–58.

The IT Companies and the European Commission agreed to assess the public commitments in the code of conduct on a regular basis, including their impact, starting with a preliminary assessment reported to the High Level Group on Combating Racism, Xenophobia and all forms of intolerance on 7 December 2016. It was also agreed to further discuss how to promote transparency and encourage counter and alternative narratives.

In order to prepare the reporting and ensure an effective measurement of progress, a methodology to assess the reaction of IT companies upon notification of illegal hate speech was agreed on 5 October 2016, in the new Commission's sub-group dedicated to countering hate speech online reporting to the High Level Group, with Member States, IT companies and organisations monitoring the web.

A factsheet prepared by the European Commission has also been made available to delegations.

Commissioner Věra Jourová will report to the Justice Ministers on 8 December 2016 about the outcome of the High Level Group on Combating Racism, Xenophobia and all forms of intolerance of 7 December 2016, including the IT companies own assessment.

Questions for discussion

1. Given the steps taken by the IT companies and the fact that the Code of Conduct is a continuous process, would you find it useful to complement the data collection made by the organisations that participated in the monitoring with collection of data from your national authorities? In case you have already done this exercise, can you please inform Ministers of its results?
2. Would you support the Commission's continuation of the dialogue with IT companies with a view to increase transparency from their side on handling of notifications on illegal hate speech and to cooperate on positive narratives? Which role could your Member State play?
3. Liability or possibility to impose sanctions on Internet platforms that have obtained actual knowledge on the existence of illegal content on their platforms varies among the Member States. Is your Member State envisaging further action or looking at increased enforcement of existing rules in this field?