



PERMANENT MISSION OF GREECE  
GENEVA

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### NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, dated 16 December 2015, has the honour to attach herewith the contribution of the Ministry of Justice, Transparency and Human Rights to the study on the responsibilities of the ICT sector to protect and promote the right to freedom of expression in the digital age .

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 28 January 2016

To: The Office of the High Commissioner for Human Rights  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Αθήνα, 27-1-2016  
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Προς:  
ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ  
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**ΘΕΜΑ:** «Συνεισφορά σε μελέτη Ειδικού Εισηγητή ΗΕ σχετικά με την ευθύνη του τομέα Τεχνολογιών, Πληροφορικής και Επικοινωνιών (ICT) ως προς την προστασία και την προώθηση της ελευθερίας της έκφρασης»

Σχετ.: Το με Α.Π. 2467/19-1-2016 έγγραφό σας

Σε συνέχεια του ως άνω σχετικού αποστέλλουμε κατά λόγο αρμοδιότητας γενικές παρατηρήσεις της υπηρεσίας μας σχετικά με το θέμα της σχετικής επιστολής, στην αγγλική γλώσσα, ως ακολούθως:

« I. CYBERCRIME:

As regards commission of crimes through computer networks there is a strong concern that Information and Communication Technologies, may also be used for committing criminal offences and that evidence relating to such offences may be stored and transferred by these networks. Council of Europe member states, recognising the need for co-operation between States and private industry in combating cybercrime and the need to protect legitimate interests in the use and development of information technologies and mindful of the need to ensure a proper balance between the interests of law enforcement and respect for fundamental human rights and especially the right of everyone to hold opinions without interference, as well as the right to freedom of expression, signed in 2001 the Council of Europe Convention on Cybercrime. As mentioned in the preamble "the present Convention is necessary to deter action directed against the confidentiality, integrity and availability of computer systems, networks and computer data as well as the misuse of such systems, networks and data by providing for the

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criminalisation of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such criminal offences."

The Ministry of Justice, Transparency and Human Rights has already drafted a bill, which will very soon be tabled in Parliament, ratifying the abovementioned Council of Europe Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and transposing into national law the Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems (and replacing Council Framework Decision 2005/222/JHA).

In addition the Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography and the Council Framework Decision 2009/948/JHA were incorporated into our national legislation by law no 4267/2014. Amendments were made to the already applicable crimes of the 19TH Chapter of the Special Part of the CC in which the crimes against sexual freedom and crimes of financial exploitation of sexual life, specifically art. 339 par. 4, 348 A, 348 B CC, were included. The aforementioned legislative amendments have introduced also the crime of the pornographic minors' depictions art. 348 C CC.

Additional amendments brought changes to specific articles of the General Part of the CC in order to achieve the expansion of the jurisdiction of the Hellenic Legal Order for crimes using the internet as a mean of their commission (art.5 par. 3 CC) and integrate specific crimes in the principle of universal justice so as their prosecution to become feasible (art. 8 period h CC).

Furthermore art.18, L.4267/2014 regulates the procedures and conditions according with the appropriate measures are taken against websites that contain or disperse child pornography material. This provision lays down rules for the procedure of deletion, barring of access of these web sites or deactivation of the domain.

## II. HATE SPEECH:

Information and Communication Technology constitutes a typical means for promoting hate speech on line. The Greek regulatory framework in line with the provisions of EU legislation provides for the punishment of hate speech when committed through the internet. In particular, apart from the constitutional provisions of ar. 2 par. 1 (Respect and protection of the value of human being), Ar. 5 par. 1-3 (free development of personality and participation in the social economic and political life, principle of non - discrimination ), Ar. 13 par. 1 and 2 (Freedom of religious conscience), Ar. 14 par. 1, 2 and 3 first alinea (freedom of expression), law 927/1979 as amended by law 4285/2014 (ar. 1-5) provides especially for the offence of hate speech, as defined in art. 1 and 2, when committed through the internet or any other means or manner. Moreover, when the offence "referred to in the preceding articles is committed on the internet or

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through other means of communication", art. 3 contains specific provisions on jurisdiction according to which "the Greek territory shall also be considered as the place of commission, provided that access to the particular means is provided in the Greek territory, irrespective of whether they are hosted in this territory". Finally, liability of legal persons or unions of persons is also regulated.

New policies, initiatives and measures are being planned by the Ministry under the provisions of the recent law 4356/2015, which establishes a consultative body on issues of racism and intolerance, the "National Council against Racism and Intolerance", with the participation, inter alia, of the National Commission for Human Rights, the Racist Violence Recording Network, the UN High Commissioner for Refugees and the Greek Ombudsman. The purpose of this Council is, among others, the development of a comprehensive anti-racist strategy and the elaboration of a National Action Plan against Racism and Intolerance and the establishment of a monitoring mechanism of hate speech.

In this context, the Ministry of Justice, attempting a review of the already existing legislative tools and the elaboration of new effective means for the best protection of individuals, takes under consideration the incorporation of new practices and provisions."

**Η ΠΡΟΪΣΤΑΜΕΝΗ ΤΗΣ ΓΕΝ. ΔΙΕΥΘΥΝΣΗΣ  
Μ. ΑΡΒΑΝΙΤΗ**

Εσωτ. Διανομή:

Γραφείο Γ.Γ. Διαφάνειας και Ανθρωπίνων Δικαιωμάτων

