

**Markt/2006/09/E**  
**Service Contract ETD/2006/IM/E2/69**

**STUDY ON THE LIABILITY OF  
INTERNET INTERMEDIARIES**

**COUNTRY REPORT – Slovenia**

**Executive summary**

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## Part 1: Legislation

The e-commerce directive was implemented into Slovenian law by Electronic Commerce Market Act (Zakon o elektronskem poslovanju na trgu – Official Gazette of the Republic of Slovenia, no. 61/2006, hereinafter: ECMA).

Article 13b ECMA implements article 12 ECD essentially verbatim. Article 13b does not implement the possibility mentioned by Article 12 paragraph 3 ECD.

Article 13c similarly implements Article 13 in an almost verbatim fashion. However, it can be remarked that this article refers to the concept of “knowledge” and not to the concept of “actual knowledge” mentioned by Article 13 ECD.

As with article 13b, article 13c does not implement the possibility mentioned by Article 13 paragraph 2 ECD.

Article 13d similarly implements article 14 in an almost verbatim fashion. Article 13d, as well as ECD, refers to the concept of “actual knowledge”.

Again, article 13d does not implement the possibility mentioned by Article 14 paragraph 3 ECD.

Article 13a implements article 15 ECD.

The different structure of the section has to be noted which is devoted to ISPs liability. In fact, article 13a ECMA is the first article, while article 15 ECD is the last one. Moreover, article 13a (4) also implements the possibility mentioned by recital 48 ECD: *“Information society service providers within the meaning of this section shall be obliged to exercise reasonable professional care in order to ensure the safety of their information systems and of the provision of electronic data”*.

Similarly article 13a (5) states that: *“(5) The Government of the Republic of Slovenia, on a proposal from the Minister for the Information Society, shall appoint a contractor with the task of ensuring the safe functioning of information systems and the provision of data in electronic form (hereinafter the “contractor”). Information society service providers are obliged to inform the contractor of activities and information which threaten the secure functioning of information systems and to cooperate with it. The contractor shall collect information relating to activities and data which threaten the secure functioning of information systems and electronic data, inform the public, cooperate with third country authorities responsible for ensuring the secure functioning of information systems and electronic data, monitor threats to security and propose solutions leading to the elimination of such threats. The Government of the Republic of*

*Slovenia shall lay down the manner of carrying out these tasks in more detail in the act appointing the contractor”.*

## **Part 2: National Case Law**

According to the information collected by stakeholders, there is no case-law in Slovenia concerning ISP liability.

Only one case can be mentioned in which a blog provider has been sued for defamatory statements. The claim against the blog provider was later withdrawn as an out of court settlement was achieved, while the dispute against the blogger is still ongoing.

## **Part 3: Notice and take down procedures**

### **A. Regulation**

There are no specific notice and take down (hereinafter: NTD) procedures in place in the Slovenian legal system and, for the time being, there are no official bills for the introduction of NTD procedures.

Slovenian legislation does not provide for any obligation on intermediary service providers to block or filter websites or other online resources, nor is any such legislation pending.

However, the Police, the SOVA (intelligence and security agency) and the OVS (defence security service) are entitled to impose an obligation of surveillance on ISPs. All measures are subjected to prior judicial control and must be reasoned according to subject specific criteria.

### **B. Self-regulation**

### **C. Co-regulation**

For the time being, there are no self- or co-regulatory measures or concerted practices on the field of takedown procedures.