

COMMUNICATION

**from the European Affairs Committee of the Federal Council
to the European Commission, the European Parliament and the Council
pursuant to Article 23f (4) of the Austrian Constitution**

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Code of conduct on countering illegal hate speech online

Communication pursuant to Article 23f (4) of the Austrian Constitution

Internet discussion fora and social media platforms make essential contributions to an open and lively debate on issues of relevance to society among a democratic public. However, the fundamental right to freedom of expression meets its limits when its unrestricted exercise violates the fundamental rights of other groups or individuals and endangers public peace. Incidents of insulting, discriminating and/or racist abuse on the internet have increased in frequency and severity in recent years.

Hate postings and so-called ‘fake news’ have a negative impact on the democratic discourse and can undermine the population’s trust in the rule of law and democratic institutions. To a growing extent, individuals spreading particularly aggressive messages make their voices heard. Such forms of behaviour constitute serious violations of fundamental rights and freedoms, such as the right to privacy and family life or the right to be protected from discrimination, and pose a threat to free participation in the societal discourse.

The Federal Council became aware of this problem at an early point in time and focused its attention on the issue of “digital courage”. The Presidency of the Federal Council in the second half of 2016 organized a parliamentary hearing, which resulted in the elaboration of a “Digital

Courage Green Book”. Experts on the subject matter explained the legal situation, explored the topic from ethical and societal points of view, and proposed national measures.

The Federal Council therefore welcomes the request addressed by the European Commission to internet companies to act more quickly in countering the spread of hate speech on the internet. At the same time, greater emphasis should be placed on media education and media competencies as a way of building awareness for fake news and enabling people to recognize fake news as such. However, the term ‘fake news’ must not be used excessively in an attempt to cast doubt on the legitimacy of opposing political positions. The voluntary code of conduct signed approximately six months ago, which provides for reactions to hate postings within 24 hours, is a first step in the right direction.

However, as the survey initiated by EU Commissioner Vera Jourová has shown, the voluntary code of conduct has not yet produced the desired effect: The obligation for IT companies running discussion fora (blogs) and social media platforms to remove hate postings within 24 hours has only been met in 40% of the cases notified.

The Federal Council notes that the non-legislative approach has had a first impact, but the desired effect of all hate postings and other illegal speech being removed within 24 hours has not been achieved. The Federal Council therefore advocates an EU initiative to ensure that IT companies, providers of platforms and law enforcement authorities counter such abuse quickly and completely and calls upon the European Commission to propose appropriate legislative measures.

The Federal Council supports any initiative taken at EU level that obliges IT companies and providers of platforms to actively counter hate speech, other illegal content and so-called fake news in the internet in a timely manner. In particular, the Federal Council welcomes the guidelines against so-called fake news announced by the Commission.

The Federal Council recognizes that combating such content may constitute a challenge as regards the respect of the fundamental right to freedom of expression.

The Federal Council therefore calls upon the Commission to take this challenge into account in

its proposal and to ensure that a clear distinction is drawn between the fundamental right to freedom of expression and the spreading of hate speech and other illegal content.