

[IE] Comisiún na Meán designated as competent national authority under the the Terrorist Content Online Regulation

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On 27 September 2024, the Irish Minister for Justice commenced Part 7 of the Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024, which amends the Broadcasting Act 2009, to designate *Comisiún na Meán* (“the Commission”), the Irish media regulator, as the competent national authority under Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online (“the Terrorist Content Online Regulation”).

As a result of this commencement, the Commission is now empowered to investigate and sanction infringements by hosting service providers of certain provisions of the Terrorist Content Online Regulation, in particular in respect of:

- The obligation to remove terrorist content or disable access to terrorist content as soon as possible on receipt of a removal order.
- The obligation to take measures to address the misuse of the provider’s service for the dissemination of terrorist content and to protect its service against the dissemination of terrorist content, and to report to the Commission the measures taken.
- The obligation to preserve terrorist content that has been removed or access has been disabled.
- The obligation to set out in the provider’s terms and conditions their policy addressing the dissemination of terrorist content and to publish a transparency report annually on actions taken pursuant to the Terrorist Content Online Regulation.
- There is an obligation to have an effective and accessible complaint mechanism and to expeditiously examine all complaints.
- The obligation on hosting service providers to provide information to content providers on the removal or disabling of access to terrorist content.
- The obligation to promptly inform the criminal authorities when the hosting service provider becomes aware of terrorist content involving an imminent threat

to life.

- The obligation to designate a contact point for receiving removal orders.
- The obligation to designate a legal representative when the hosting service provider is not established in the European Union.

As part of its investigative powers, the Commission has various powers to commence investigations, enter premises, obtain information, materials and equipment and obtain search warrants.

On foot of its investigations, the Commission now has the power to impose an administrative financial sanction where it is satisfied on the balance of probabilities that a contravention of the Terrorist Content Online Regulation has occurred, taking into account:

- the nature, gravity and duration of the contravention;
- whether the contravention was intentional or negligent;
- previous contraventions by the hosting service provider;
- the financial strength of the hosting service provider;
- the level of cooperation of the hosting service provider with the Commission;
- the nature and size of the hosting service provider;
- the degree of fault of the hosting service provider.

In respect of a contravention of the Terrorist Content Online Regulation that amounts to or is a result of a systemic or persistent failure to comply with the obligation to remove terrorist content or disable access to terrorist content as soon as possible, the Commission has the power to impose an administrative financial sanction of up to 4 per cent of the global turnover of the provider.

Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online

<https://eur-lex.europa.eu/eli/reg/2021/784/oj>

Broadcasting Act 2009 (consolidated)

<https://revisedacts.lawreform.ie/eli/2009/act/18/revised/en/html>

Broadcasting Act 2009 (cosnoliated)

<https://revisedacts.lawreform.ie/eli/2009/act/18/revised/en/html>

Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024

<https://www.irishstatutebook.ie/eli/2024/act/30/enacted/en/index.html>

Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024 (Part 7) (Commencement) Order 2024

<https://www.irishstatutebook.ie/eli/2024/si/486/made/en/print>

