[AT] Police Pounce on Internet Service Provider

IRIS 1997-5:1/3

Wolfgang Closs
Institute of European Media Law (EMR), Saarbrücken/Brussels

At the end of March 1997, the Austrian Economic Crimes Squad seized all the hardware and software belonging to an Internet service provider. Four hundred firms, connected to this server, were hit by the seizure. A court had ordered the search because there was reason to suspect that material containing child pornography had been disseminated by the server. The server itself is not under suspicion. The seizure was ordered solely for the purpose of collecting evidence.

Proceedings against persons unknown for the dissemination of child pornography are at present pending in the Vienna Regional Court. The police hope that the seizure will indicate who is responsible for supplying, i.e. inserting the unlawful picture material.

The search and seizure have sparked public discussion concerning the extent of a service provider's responsibility for the content of material carried on the web. The authorities concerned take the view that the Internet in Austria is subject to those sections of the law which prohibit the dissemination of pornography. This means that a service operator who is aware of illegal material, knowingly accepts it and so puts it on offer is guilty of a criminal offence. The newly-established Austrian Association of Internet Access Providers (Verband der Internet-Provider - ISPA) is against making network operators liable, arguing that they cannot reasonably be expected to monitor all the material they carry - and indeed that its sheer volume makes this impossible. It considers that responsibility for content and presentation necessarily lies with the author of the material. It condemns the dissemination of illegal material on the Internet and has promised to co-operate with the investigating authorities, as and when necessary. Representatives of the Austrian Internet Access Providers are considering bringing state liability proceedings against Austria because of the seizure.

Against the background of these discussions, amendment of the Telecommunications Act to put Internet service providers on the same legal footing as telephone service operators is being considered. This would make them legally responsible for unlawful content and oblige them to remove it within a specified time, on being notified of its existence by the authorities.

In protest at the seizure, more than 90% of Austrian Internet servers staged a strike, lasting several hours, which paralysed the country's Internet connections.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026