FRISCO Fact Sheet #1

The TCO Regulation at a glance
What Hosting Service Providers need to know

FR!SCO
Fighting Terrorist Content Online

This fact sheet is part of the FRISCO project's comprehensive offering of tools and resources supporting Hosting Service Providers (HSPs) to develop effective responses to addressing the dissemination of terrorist content online. It provides a concise overview of the key provisions of the EU's *TCO Regulation* [1] and how online platforms are affected. The fact sheet addresses the following questions:

- What are the key elements of the TCO Regulation?
- What is its scope of applications and who is affected?
- What is terrorist content?
- What are the main obligations of HSPs?

What are the key elements of the TCO Regulation?

Removal orders: National competent authorities in each member state have the power to issue removal orders requiring hosting service providers to remove or disable access to terrorist content across all member states. HSPs need to establish a single point of contact or a legal representative (for non-EU companies) to receive removal orders and cooperate with authorities.

One-hour rule: Online platforms are obliged to remove or disable access to terrorist content within one hour upon receiving a removal order from member states' competent authorities; inform users of the removal and the reasons therein and preserve the content removed or disabled.

Proactivity: Online platforms are obliged to take specific proactive measures to identify and prevent the dissemination of terrorist content if they have been exposed to such (e.g. implement content moderation mechanisms). Measures need to be appropriate, effective and proportionate.

Protection of fundamental rights: Strong safeguards need to be in place to protect fundamental rights, such as freedom of expression and information, respect for private life and personal data protection. For example, user-friendly and effective complaint procedures must be implemented for erroneous removal of lawful content, human oversight and verification of content moderation, among others.

Sanctions: EU member states are able to sanction non-compliance and to decide on the level of penalties (up to 4% of annual turnover), which will be proportionate to the nature of the infringement and the size of the hosting service.

Transparency requirements: Online platforms that have been exposed to or have taken actions against terrorist content, and national authorities, have reporting and transparency obligations. This includes annual reports on the removal of terrorist content, the outcomes of complaints and appeals, and for national authorities – information on the penalties imposed on online platforms.

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[1] Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online: *https://eur-lex.europa.eu/eli/reg/2021/784/oj*.

Who is affected? Definition of Hosting Service Providers (HSPs)

The TCO Regulation applies to Hosting Service Providers, who fulfil the following criteria:

- Store Content at the direct request of the user
- Disseminate content to the public
- Offer their services in the EU or have significant number of users in the EU, regardless of place of establishment
- Companies of any size

> **Hosting Service Provider:** a provider of Information Society Services, consisting of the storage of information provided by and at the request of a content provider.
>
> **Information Society Service:** any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

What is terrorist content?

Terrorist content as any type of material (including **text, audio, video**) that:

- incites terrorist offences1 or glorifies terrorist acts,
- provides instructions for making weapons or using them for terrorist purposes,
- or promotes terrorist groups or solicit participation therein.

Excluded content: To ensure a balance between protecting public safety and freedom of expression, the regulation excludes content used for education, journalism, artistic expression, research, or raising awareness against terrorism.

What are the implications for HSPs?

✖ *HSPs are NOT obliged to...*

1. Monitor the content they host
2. Actively investigate illegal activities on their services
3. Use automated detection tools*

The EU TCO Regulation (Art. 5) requires HSPs who have been exposed to terrorist content to put in place specific proactive measures to identify and prevent the dissemination of terrorist content. HSPs can chose what content moderation measures are effective and proportionate to the risks and their own capabilities and resources.

✔ *HSPs are OBLIGED TO...*

1. Establish a single point of contact or a legal representative
2. Remove/disalble access upon recieving a removal order
3. Prohibit terrorist content in their terms of services
4. Preserve the removed content and related data
5. Implement proactive specific measures if exposed to TCO
6. Create complaint mechanisms
7. Provide information to users
8. Cooperate with authorities
9. Publish annual transparency reports

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