

CJEU fines Ireland for failing to transpose the revised AVMSD

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On 29 February 2024, the Court of Justice of the European Union (CJEU) imposed fines on Ireland for failing to notify the full implementation of the revised Audiovisual Media Services Directive (AVMSD). Several countries – Czechia, Romania, Slovakia, Spain and Ireland – had been referred to the CJEU by the European Commission on 19 May 2022 for failing to fully transpose the AVMSD within the required time frame. Since then, all except Ireland have notified the European Commission of the full transposition of the AVMSD.

The CJEU ruled that, by failing to communicate the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU in view of changing market realities, to the European Commission by the expiry of the period laid down in the reasoned opinion, Ireland had failed to fulfil its obligations under Article 2 of Directive 2018/1808.

It also declared that by failing to adopt the provisions necessary to transpose into its national law the provisions of the revised AVMSD, and by failing to notify the measures to the Commission, Ireland "persisted in its failure to fulfil its obligations".

As a consequence, the CJEU ordered Ireland to pay the Commission a lump sum of EUR 2 500 000 and, should the infringement persist at the date of delivery of this judgment, "as from that date and until that Member State has put an end to that infringement, a daily penalty payment in the amount of EUR 10 000".

The CJEU noted, however, that it had taken into account in its ruling the fact that Ireland had communicated to the Commission, on 2 March 2023, legislation partly transposing the revised AVMSD, "which led the Commission to adapt the form of order sought".

The ruling also notes that Ireland had conceded in its rejoinder that it had not yet transposed obligations contained in Article 6a(1) and (3) of the AVMSD relative to ensuring that audiovisual media services "do not make available to minors content which may impair their physical, mental or moral development", as well as those contained in Article 28b(1) relating to the taking of appropriate measures by video-sharing platform providers under their jurisdiction to protect the general

public from "programmes, videos or audiovisual commercial communications containing incitement to violence or hatred or which constitute an activity which is a criminal offence under EU law".

In a press release, the Irish Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media noted that Ireland accepted the judgment and would study it in detail, noting also that the fines imposed were "significantly lower than the maximum levels that were open to the Court to impose". While it doesn't oppose the ruling, the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media adds that the need to establish a new regulator to oversee the implementation of the AVMSD's transposition into Irish law had played a part in making the transposition process longer.

Press release - Statement in relation to fines imposed by the Court of Justice of the European Union

<https://www.gov.ie/en/press-release/0bbdb-statement-in-relation-to-fines-imposed-by-the-court-of-justice-of-the-european-union/>

Judgment of the Court (Ninth Chamber) of 29 February 2024 - European Commission v. Ireland

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62022CJ0679>

