[FR] Compatibility with European law of ARCOM measures to block a pornographic website

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In accordance with the procedure provided for in section V of Article 10-1 of the Law of 21 June 2004 instituted by the Law of 21 May 2024, an internet service provider sought the annulment of a decision of 6 March 2025, in which the ARCOM president, pursuant to section III of Article 10-1, had notified it of a web address to which it had been ordered to block access within 48 hours for a period of two years, and asked it to redirect users wishing to access it to an ARCOM information page. In the alternative, the company asked the court to stay the proceedings and to refer eight questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling.

In the case at hand, on 12 February 2025, a sworn ARCOM official had found that access to pornographic content broadcast on the Camschat service at the address in question had not been conditional on verification of the user's age, and that this had constituted a breach of Article 227-24 of the Criminal Code.

Asked to rule on the compatibility with European law of the provisions of Article 10-1 of the Law of 21 June 2004, created by the Law of 21 May 2024, the Paris administrative court pointed out that the blocking measures imposed by ARCOM on a provider of domain name resolution services, aimed at preventing access to pornographic content without age verification and based on Article 10-1 of the Law of 21 June 2004 and Article 227-24 of the Criminal Code, did not constitute sanctions but administrative police measures.

In this case, the blocking measure had been notified to the European Commission in accordance with Directive 2015/1535. The Court found that it was not incompatible with Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act – DSA), which fully harmonised rules on the protection of minors applicable to providers of online platforms normally accessible to minors (defined in particular as those for which no age limits are set) and "very large online platforms" (with more than 45 million active recipients). As regards other platforms which did not fall into these two categories, as in the case of Camschat, the court stated that it was left to the Member States to lay down the strictest appropriate access control measures, in particular by setting up systems for verifying the age of users of platforms under their jurisdiction. The applicant had no grounds for claiming that the provisions on which the contested

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blocking order was based infringed the DSA.

In addition, the difference in treatment between providers established in France or outside the European Union and those established in another Member State was deemed justified by Directive 2000/31/EC.

Lastly, the blocking measures did not infringe the freedom to conduct a business or the freedom of expression, in that they had the legitimate objective of preventing minors accessing online pornographic content by any means other than a simple declaration of the user's age, in order to guarantee the protection of the best interests of the child enshrined in Article 24 of the EU Charter of Fundamental Rights.

The disputed blocking mechanism was therefore deemed appropriate, necessary and proportionate to the objective pursued. The application was dismissed.

TA Paris (5e sect. 4e ch.), 15 avril 2025, n° 2506972, Société Cloudflare

https://paris.tribunal-administratif.fr/decisions-de-justice/dernieres-decisions/blocage-d-un-site-pornographique-pour-empecher-l-acces-des-mineurs-a-son-contenu

Paris administrative court (5th section, 4th chamber), 15 April 2025, no. 2506972, Société Cloudflare

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