[FR] Suspension of order requiring age verification of users of 17 pornographic websites

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The operator of the xHamster website asked the interim relief judge to suspend the order of 26 February 2025 identifying, pursuant to Article 10-2 of the Law of 21 June 2004, 17 online video-sharing websites operated by providers established in another EU member state and requiring them to implement an effective age verification system for users of their sites that broadcast pornographic content, subject to financial penalties and blocking or delisting measures ordered by the *Autorité de régulation de la communication audiovisuelle et numérique* (the French audiovisual regulator – ARCOM).

Since, firstly, the *Conseil d'Etat* (Council of State) had considered it necessary to refer questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling on the compatibility of Articles 10, 10-1 and 10-2 of the Law of 21 June 2004 with the objectives of Directive 2000/31/EC, having regard to the CJEU's interpretation of its provisions in its judgment of 9 November 2023 (Google Ireland Ltd and others), and secondly, the Paris Court of Appeal had stayed proceedings on the application to block the xHamster website pending the CJEU's response because it was likely to affect the outcome of the dispute, the interim relief judge ruled that the administration must be regarded as having issued an act whose compatibility with EU law was in serious doubt. This doubt was sufficient in itself to create an urgent situation without it being necessary to rule on the other grounds for suspending the contested order as a matter of urgency.

The Paris appeal court ruled that the claims that Article 10-2 of the Law of 21 June 2004, on the basis of which the contested order had been made, was incompatible with Directive 2000/31/EC because it failed to comply with the procedure laid down in Article 3(4)(b) of that directive, which requires a Member State intending to restrict a service provided from another Member State to give prior notification of its intention both to the state in which the provider was established and to the European Commission, gave rise to serious doubt as to the legality of the contested order.

As the two conditions of Article L. 521-1 of the Code of Administrative Justice were met (urgency to suspend execution of the order and existence of serious doubt as to its legality), the interim relief judge ruled that the order of 26 February 2025 should be suspended.

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TA Paris, 16 juin 2025, n° 2514377, Hammy Media LTD (décision non définitive)

Paris appeal court, 16 June 2025, no. 2514377, Hammy Media LTD (decision not yet final)

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