[RO] Psychoactive Substances and Website Blocking

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On 7 November 2011 Act no. 194/2011 on fighting activities with substances capable of having psychoactive effects, other than those stipulated in the regulations in force, was promulgated by the President of Romania and published in the Official Journal of Romania no. 796 of 10 November 2011 (Part I).

The Act implements Directive 98/34/EC and establishes the legal framework applicable to products, other than those determined by existing legislation, capable of having psychoactive effects, by imposing measures to prevent, control and fight the consumption of such products. The maximum penalty for infringements of the Act is up to 20 years imprisonment if a person loses his/her life due to illegal operations concerning the above mentioned products.

According to the law, if there is a risk of using such products, or one can reasonably assume that there is such a risk and the respective activities are conducted by electronic means, the Ministry of Communications and Information Society requests the electronic communications service providers to block access to the content of the concerned website within twelve hours. The Ministry can be referred to by the Ministry of Health, the National Consumers Protection Authority or the National Sanitary Veterinary and Food Safety Authority. Infringements of the obligation to block access as requested are a contravention and can incur fines of RON 50,000-100,000 (EUR 11,460-22,930).

Five Romanian NGOs dealing with human rights and freedom of expression expressed their concerns in September 2011 with regard to the website blocking measures proposed in Act 194/2011. The NGOs have sent a position document to the *Biroul Permanent al Camerei Deputaţilor* (Permanent Office of the Assembly of Deputies), the lower chamber of the Romanian Parliament, criticising the measures proposed. The NGOs consider that website blocking without a judicial decision is a measure of censorship of online media content, raising serious concerns with regard to the observance of human rights and, in particular, of freedom of expression. They warn that the EU explicitly included in the Electronic Communications Directive 2002/21/EC the obligation for member states to take measures in order not to block or abusively restrict access to the Internet (see IRIS 2011-6/28). The critical opinions came in the context of other similar legislative measures proposed with regard to adult pornographic websites and the organising and operation of gambling.

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Legea nr. 194/2011 privind combaterea operaţiunilor cu produse susceptibile de a avea efecte psihoactive, altele decât cele prevăzute de acte normative în vigoare, (M.Of. nr.796 din 10 noiembrie 2011)

http://www.apti.ro/PL-combaterea-opera%C5%A3iunilor-cu-produse-susceptibile-de-a-avea-efecte-psihoactive

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