European Commission: Poland referred to the EU Court of Justice for not fully implementing the AVMS Directive

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On 21 June 2012, the European Commission released a press statement announcing its intent to refer Poland to the EU Court of Justice. The Commission explained that Poland had failed to fully implement the Audiovisual Media Services Directive (AVMS Directive).(see IRIS 2010-8/4 and IRIS 2011-5/5).

According to the Commission, Poland has not fully implemented the provisions regarding on-demand services. The Commission mentions in particular that the requirements that aim to protect viewers, especially children, from commercial communications in the form of hidden advertising or from content containing incitement to hatred are not met. Also, according to the Commission, Poland has not adhered to the rules on promotion of European works by audiovisual media service providers of on-demand services. Since under Polish law on-demand services do not comply with the obligations set by the Directive the Commission considers that Poland has breached its implementation obligations under the Directive.

Under Article 260 of the Lisbon Treaty, the European Commission can propose financial penalties to the Court of Justice taking into account the duration and severity of the infringement as well as the size of the member state. In the present case, the European Commission has proposed the imposition of a daily fine of more than EUR 110,000 until Poland will have notified the Commission of the full implementation of the Directive into Polish law. The fine would be paid from the date of the Court's decision on the infringement.

Digital Agenda: Commission asks Court of Justice to fine Poland for not fully implementing Audiovisual Media Services Directive, IP/12/631, 21 June 2012

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