[RO] Final Rejection of the Modification of the Act on Preventing and Fighting Pornography

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On 19 June 2012, the Romanian Chamber of Deputies (lower Chamber of the Parliament) rejected by a large majority a Bill on the revision and modification of Law no. 196/2003 on preventing and fighting pornography. The Bill was rejected by 184 votes to 6, with two abstentions. On 26 April 2011, the Bill had been rejected by the Romanian Senate (upper Chamber), although the Chamber of Deputies took the final decision (see IRIS 2003-1/27, IRIS 2004-2/36, and IRIS 2011-6/28).

The bill had been proposed by the Romanian Government in January 2011. It aimed to amend and supplement the legal framework on pornographic activities and to impose regulatory and control measures on access to pornographic material available through computer systems.

The Government intended to fill the gaps in the 2003 Act in respect of online content and to restrict the access of minors to pornographic websites by obliging the creators of such websites to introduce a password-protected access system. At the same time, the Bill sought to place responsibility for links to pornographic content on Internet Service Providers (ISPs). This would have been done under the provisions of Act no. 365/2002 on electronic commerce and been subject to a financial penalty for contravention.

The Government also tried to define pornography both more strictly and widely. The owners of a domain name intending to use it for a pornographic website only, would have been required to notify the Ministry of Communications and Information Society (the Ministry) of that intention. The Bill aimed to oblige those operators to place a warning on their websites as to their content, that is visible at initial access to the site in question. The Bill also aimed to give more powers to the Ministry to enforce the obligations imposed by law.

Six Romanian human rights and mass media freedom Non Governmental Organisations (NGOs) considered the provisions of the Bill to be unclear, to restrict freedom of expression, to endanger the right to privacy and potentialy to transform ISPs into a “digital police force”. The Association for Technology and Internet, (ApTI), along with the 5 other NGOs, proposed many amendments to the Bill and considered that the Bill’s aim should not have been to prevent and oppose content that is legal yet harmful to children. It should instead be to

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protect children from the possible access to such content. The NGOs added that any measure that blocks internet access through ISPs represents a censorship measure. They warned that a Romanian law can be applied only to Romanian natural or legal persons, which could lead to the hosting outside of Romania of sites with pornographic or other harmful content. They recommended to the Parliament that it refrain from any legislative measure in the field which would be, in their opinion, useless and would not achieve its aims. The primary solution proposed by the 6 NGOs was the education of children on the dangers and advantages of the internet.

Proiect de lege pentru modificarea şi completarea Legii nr.196/2003 privind prevenirea şi combaterea pornografiei

http://www.apti.ro/proiect-lege-modificarea-legii-privind-prevenirea-si-combaterea-pornografiei

Bill on the modification and completion of Act no. 196/2003 on preventing and fighting pornography

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