[RO] Modification of the audiovisual and cinematography legislation

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The Chamber of Deputies (lower chamber of the Romanian Parliament) adopted on 7 December 2021 the Draft Law for the amendment and completion of the Audiovisual Law no. 504/2002, and the amendment and completion of the Government Ordinance no. 39/2005 on cinematography (see inter alia IRIS 2013-6/28, IRIS 2017-1/30, IRIS 2017-2/27, IRIS 2017-7/28, IRIS 2018-6/30, IRIS 2018-8/36, IRIS 2018-10/22, IRIS 2018-10/23, IRIS 2019-1/31, IRIS 2019-2/21, IRIS 2019-4/29, and IRIS 2019-5/22).

The Draft law was sent to the Senate (upper chamber) whose decision will be final. The project aims at transposing Directive no. 1808, of 14 November 2018, amending Directive 2010/13 /EU on the coordination of certain provisions established by laws, regulations or administrative provisions in the member states on the provision of audiovisual media services (Audiovisual Media Services Directive), taking into account the evolution of market realities. The European Commission decided on 12 November 2021 to send reasoned opinions calling on Romania and France to complete the transposition of the Audiovisual Media Services Directive into national law.

The project proposes to redefine the notions of audiovisual media services, program, retransmission, commercial communication, sponsorship, product placement, audiovisual license, and coding, while introducing some new definitions for the notions of sharing platform services, user-generated video material, editorial decision, platform providers for sharing and authorizing audiovisual media services upon request.

The project introduces new competencies for the National Audiovisual Council (CNA), regarding its communication, information and reporting activity to the European Commission, as well as new responsibilities related to the management of the audiovisual field, new skills related to communication, cooperation and exchange of experience with other bodies with similar functions in the Member States.

The project reformulates the general framework that audiovisual media services need to observe in order to ensure the protection of minors, as well as to ensure the defense of morality, public health and public safety. In this regard, a

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mechanism has been provided through which CNA may restrict an audiovisual media service if it incites hatredor violence, instigates terrorism, or poses a risk to public health or safety. In this regard, a number of restrictions and prohibitions on content are introduced in order to limit, eliminate or reduce the exposure of minors to programs that may affect their moral, their physical or their mental development.

The draft introduces provisions designed to encourage self-regulation in the audiovisual field, giving the possibility to elaborate codes of conduct, imposing at the same time a set of requirements to ensure their effectiveness, in particular with regard to the protection of minors, in the case of commercial communications regarding alcohol or tobacco products, or against products, beverages or substances with a negative nutritional effect. Regulations have also been introduced to facilitate access for people with disabilities to audiovisual media services.

The project complements the regulations on sponsorship and product placement in audiovisual programs, which are prohibited if they are made for electronic cigarettes or refill bottles. For commercial communications and product placements, new rules are introduced on their content and broadcast mode. The draft regulates some aspects regarding the way of establishing the jurisdiction of video sharing platform providers.

The project completes and clarifies the procedure for dismissing the CNA leadership, in order to ensure that the provisions of Law no. 504/2002 meet the conditions of transparency, independence and non-discrimination considered in Article 30 paragraph (5) of the Directive 2010/13/EU, as amended by Directive 1808/2018.

The project modifies and completes Article 13 and Article 16 of the Government Ordinance no. 39/2005 on cinematography, in the sense of inclusion in the payment (by the providers of audiovisual media services on demand) of a 3% quota from the price of audiovisual works downloaded for a fee through services of data transmission, including via the Internet or telephony, through on-demand audiovisual media service providers, and to complete the list of contributions with a contribution of 4% of the revenues obtained through unique transactions or from subscription, for viewing audiovisual works through data transmission services via the Internet or telephony.

These changes keep in mind that the principles of the AVMS directive,as approved in 2010, are also based on the promotion of European audiovisual works through the broadcasting programs, but also through the possibility of inclusion of the of broadcasters’ contribution in the production of national audiovisual works. In Romania, financing the production of films is made on the basis of Government Ordinance no. 39/2005 regarding cinematography, whose Article 13 provides for

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the various contributions to the Film Fund of the audiovisual actors. In the context of declining revenues at the Film Fund due to restrictions to prevent the spread of the new coronavirus SARS-COV2 (closure of movie theaters and the decline of the advertising market, leading to a 35% decrease in the Fund's revenue) urgent action is needed, including in the legislative field, consider the initiators.

Draft Law for the amendment and completion of the Audiovisual Law no. 504/2002, as well as for the amendment and completion of the Government Ordinance no. 39/2005 on cinematography - Reasoning

Proiect de Lege privind aprobarea Ordonanţei Guvernului nr.5/2019 pentru prorogarea unui termen prevăzut în art.2 alin.(1) din Ordonanţa de urgenţă a Guvernului nr.18/2015 privind stabilirea unor măsuri necesare pentru asigurarea tranziţiei de la televiziunea analogică terestră la televiziunea digitală terestră şi implementarea serviciilor multimedia la nivel naţional - Forma adoptată de Camera Deputaţilor

https://193.226.121.238/pls/proiecte/docs/2021/cd430_21.pdf

Draft Law on the approval of the Government Ordinance no.5 / 2019 for the extension of a term provided in art.2 paragraph (1) of the Government Emergency Ordinance no.18 / 2015 on establishing the necessary measures to ensure the transition from analogue terrestrial television digital terrestrial television and the implementation of multimedia services at the national level - The form adopted by the Chamber of Deputies

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