[FR] Operators of online platforms with more than 10 million unique visitors per month must help fight public dissemination of hateful content

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In application of Article 42 of the *Loi confortant le respect des principes de la République* (Law no. 2021-1109 of 24 August 2021 safeguarding respect for the principles of the Republic), which amended Article 6-4 of the *Loi pour la confiance dans l'économie numérique* (Law no. 2004-575 on confidence in the digital economy – LCEN), decree no. 2022-32 of 14 January 2022 requires online platform operators that registered more than 10 million unique visitors per month on French soil in the previous calendar year to contribute to the fight against the dissemination of hateful content. These operators will be subject to specific obligations: they will need to appoint a single point of contact, set up alert mechanisms, inform the public of the measures being taken to combat the dissemination of hateful content, especially content removal procedures, and cooperate with judicial authorities (see Art. 6-4 LCEN). Compliance with these obligations will be monitored by the *Autorité de régulation de la communication audiovisuelle et numérique* (Regulatory Authority for Audiovisual and Digital Communication – ARCOM), which will be able to issue a formal notice to operators that fail to meet their legal obligations and, if appropriate, fine them up to EUR 20 million or 6% of their total global turnover from the previous financial year.

The decree also imposes additional obligations on operators with more than 15 million unique visitors per month on French soil, requiring them to evaluate the systemic risks linked to the operation of the platforms concerned, and to take “reasonable, effective and proportionate measures” to mitigate the risk of dissemination of prohibited content. Only connections to a service or a distinguishable part of a service whose main purpose is to classify, index or share content posted online by third parties, as defined in Article L. 111-7 of *Code de la consommation* (Consumer Code), are taken into account. Under the law, these obligations are valid until 31 December 2023 at the latest, which is when the Digital Services Act is expected to enter into force.

ARCOM has announced that, during the first quarter of 2022, it will lead a consultation with the platforms concerned, at the end of which the guidelines will be adopted by its collegiate body. However, according to an ARCOM press release, “since these guidelines are not normative in character, they will not be a condition of implementation, by the operators, of the provisions of Article 42 of the Law of 24 August 2021”. At the end of 2022, according to the law, the

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regulator will then publish the first annual report on the implementation of the platforms' obligations in the fight against online hatred. In parallel, ARCOM will continue to play a part in negotiations for the Digital Services Act, in particular as part of the European Regulators' Group for Audiovisual Media Services (ERGA).

Décret n° 2022-32 du 14 janvier 2022 pris pour l'application de l'article 42 de la loi n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République et relatif à la fixation d'un seuil de connexions à partir duquel les opérateurs de plateformes en ligne concourent à la lutte contre la diffusion publique des contenus illicites, publié au Journal officiel du 16 janvier 2022

https://www.legifrance.gouv.fr/download/pdf?id=Vy_1XUJ1Kf7MSjnxvF4ieGorswIll3bSm2y6Qp746Es=

Decree no. 2022-32 of 14 January 2022 applying Article 42 of Law no. 2021-1109 of 24 August 2021 safeguarding respect for the principles of the Republic and fixing a connection threshold above which online platform operators must help combat the public dissemination of illicit content, published in the Official Gazette of 16 January 2022

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