[DK] On 15 February 2023 the European Commission referred Denmark, along with a handful of other member states, to the CJEU for failing to transpose the DSM Directive

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The much-debated Directive on Copyright in the Digital Single Market (the DSM Directive), which impacts authors, online platforms and internet users, was due to be implemented in the EU by 7 June 2021. As a result of the COVID pandemic, which took up many resources, an election, and the long process of forming a new government (which was finally agreed in December 2022) Denmark was unable to meet this deadline.

Denmark did however transpose part of the DSM Directive in time:

The Danish Ministry of Culture had divided implementation of the DSM Directive into two parts. The first part consisted of the implementation of Articles 15 and 17. The former Danish Minister for Culture introduced the legislative proposal implementing Articles 15 and 17 on 26 March 2021. The legislation was adopted on 4 June 2021 and came into force on 7 June 2021, i.e. just in time.

Denmark has not yet however transposed the second part of the Directive. This was to be included in a subsequent legislative proposal, first planned for the summer of 2022, then by the fourth quarter of 2022, and finally for January 2023. However, now, in early March 2023, the legislative proposal has still not been sent out to be heard by the new Danish Ministry of Culture.

The process has been delayed, and there is therefore not much time left for firstly, the hearing, then the proposal before Parliament, and finally the inclusion of the proposal in subsequent legislation by 1 July 2023 (according to the latest plans), i.e. some two years late.

On 15 February 2023, the European Commission referred Denmark, together with a handful of other member states, to the CJEU for failing to transpose the entire Directive (as described, Denmark has only implemented Articles 15 and 17).

In contrast, Denmark has implemented the so-called SatCabII Directive in time. Implementation took place together with the first part of the DSM Directive. Only five member states have not yet transposed this Directive: Bulgaria, Finland, Latvia, Poland and Portugal (the same states that have not yet transposed the DSM Directive).

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Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

https://eur-lex.europa.eu/eli/dir/2019/790/oj

Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0789

European Commission at work, infringement decisions

https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&typeOfSearch=false&active_only=0&noncom=0&r_dossier=INFR%282021%290196&decision_date_from=&decision_date_to=&title=&submit=Search

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