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Publisher:

European Audiovisual Observatory
76, allée de la Robertsau
F-67000 STRASBOURG

Tel. : +33 (0) 3 90 21 60 00
Fax : +33 (0) 3 90 21 60 19
E-mail: obs@obs.coe.int
www.obs.coe.int

Comments and Contributions to: iris@obs.coe.int

Executive Director: Susanne Nikoltchev

Editorial Board:

Maja Cappello, Editor • Francisco Javier Cabrera Blázquez, Sophie Valais, Julio Talavera Milla, Deputy Editors (European Audiovisual Observatory)

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Council to the Editorial Board: Amélie Blocman, *Legipresse*

Documentation/Press Contact: Alison Hindhaugh

Tel.: +33 (0)3 90 21 60 10

E-mail: alison.hindhaugh@coe.int

Translations:

Sabine Bouajaja, European Audiovisual Observatory (co-ordination) • Paul Green • Katherine Parsons • Marco Polo Sarl • Nathalie Sturlèse • Erwin Rohwer • Ulrike Welsch

Corrections:

Sabine Bouajaja, European Audiovisual Observatory (co-ordination) • Sophie Valais, Francisco Javier Cabrera Blázquez and Julio Talavera Milla • Aurélie Courtinat • Barbara Grokenberger • Jackie McLelland • James Drake

Distribution: Nathalie Fundone, European Audiovisual Observatory

Tel.: +33 (0)3 90 21 60 06

E-mail: nathalie.fundone@coe.int

Web Design:

Coordination: Cyril Chaboisseau, European Audiovisual Observatory • Development and Integration: www.logidee.com • Layout: www.acom-europe.com and www.logidee.com
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EDITORIAL

We have been quite busy during the summer break. On top of putting in place the newsletter you are currently reading, we have produced two legal publications that will surely meet your interest. The first concerns the so-called release (or exploitation) windows, that is, the business model whereby cinematographic films are exploited in different markets (cinema theatres, VOD, Pay TV, and free TV) at different times in order to maximise profits by avoiding competition between those markets. This IRIS Plus (which you will find here) answers a.o. the following questions: why should anybody, be it the state or an industry association, tell a producer how to exploit his or her film? Why should a producer follow this chronology if he or she does not want to? Is such a system legal? Is it compatible notably with competition law? With the freedom to provide services and goods? Otherwise, which are the different systems operating in Europe?

The second publication, made under the scientific coordination of our partner, the Institute for Information Law (IViR) of the University of Amsterdam, concerns the independence of the media regulatory authorities in Europe. The regulation and supervision of the audiovisual sector, a fundamental pillar of the right to freedom of expression and information, must be placed in the hands of an institution that bows to no one, neither the government nor private third parties. Only then is it guaranteed that decisions affecting one of the most fundamental rights – indeed a cornerstone - of democracy are made without taking into consideration any spurious interests. This IRIS Special (available here) aims to bring clarity to the heterogeneous picture formed by the many different media regulatory authorities in Europe, and to advance understanding of the ways in which the revised AVMSD may have an impact on current legislation and practices.

Enjoy your read!

Maja Cappello, editor
European Audiovisual Observatory

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INTERNATIONAL

COUNCIL OF EUROPE

COE: SECRETARIAT

Ad hoc committee issues recommendation on AI and human rights

Ronan Ó Fathaigh
Institute for Information Law (IViR), University of Amsterdam

On 11 September 2019, the Committee of Ministers of the Council of Europe set up an ad hoc committee on Artificial Intelligence (CAHAI). The purpose of the ad hoc committee is to examine (on the basis of broad multi-stakeholder consultations) the feasibility and potential elements of a legal framework for the development, design and application of artificial intelligence; such an initiative would be based on Council of Europe standards regarding human rights, democracy and the rule of law. This follows the Helsinki meeting in May 2019 of the foreign ministers of the Council of Europe member states (see IRIS 2019-7/3).

Moreover, on 4 May 2019, the Council of Europe Commissioner for Human Rights published a 29-page recommendation on AI and human rights, entitled "Unboxing Artificial Intelligence: 10 steps to protect Human Rights". The Recommendation provides guidance (focusing on certain key areas of action) regarding how the negative impact of AI systems on human rights can be prevented or mitigated. These include the suggestion that (a) member states should establish a legal framework that sets out a procedure whereby public authorities can carry out human-rights impact assessments in respect of AI systems acquired, developed and/or deployed by those authorities; (b) member states should effectively implement the UN Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 of the Committee of Ministers to member states on human rights and business; (c) member states should establish a legislative framework for exercising independent and effective oversight over the human-rights compliance on the part of public authorities and private entities in respect of the development, deployment and use of AI systems; (d) in all circumstances, discrimination risks must be prevented and mitigated, with special attention being paid to groups whose rights are at a disproportionate risk of being impacted by AI; and (e) member states should – within the context of their responsibility to respect, protect and fulfil every person's human rights and fundamental freedoms – take into account the full spectrum of international human rights standards that may be engaged by the

use of AI.

Notably, the Secretary General of the Council of Europe has also set up a taskforce (with a dedicated website), whose membership is drawn from across the Council of Europe, to assess both the threats and opportunities of AI in respect of human rights.

Lastly, these developments follow the 2019 Declaration by the Committee of Ministers on the manipulative capabilities of algorithmic processes (see IRIS 2019-4/3) and the issuance by the European Union's High-Level Expert Group on Artificial Intelligence's of its Guidelines on AI (see IRIS 2019-7/3).

Council of Europe, "The Council of Europe established an Ad Hoc Committee on Artificial Intelligence - CAHAI", 11 September 2019

https://www.coe.int/en/web/artificial-intelligence/-/the-council-of-europe-established-an-ad-hoc-committee-on-artificial-intelligence-cahai

Council of Europe Commission for Human Rights, Unboxing Artificial Intelligence: 10 steps to protect Human Rights, 4 May 2019

https://rm.coe.int/unboxing-artificial-intelligence-10-steps-to-protect-human-rights-reco/1680946e64

RUSSIAN FEDERATION

European Court of Human Rights: *Pryanishnikov v. Russia*

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

The European Court of Human Rights (ECtHR) has delivered a judgment concerning the refusal to grant a film reproduction licence to a Russian film producer on the ground that he was suspected of producing and distributing pornographic films. The ECtHR found that the refusal was a too far-reaching and non-justified restriction on the film producer's freedom of expression, violating Article 10 of the European Convention on Human Rights (ECHR).

The applicant in *Pryanishnikov v. Russia* is a film producer who owns the copyright to over 1 500 erotic films. The films were approved for public distribution by the Ministry of Culture for audiences over eighteen years of age, and Pryanishnikov held valid distribution certificates in respect of them. However, the Ministry of the Press, Broadcasting and Mass Media refused Pryanishnikov's application for a licence for the reproduction of his films because he was involved in investigative measures concerning the illegal production, advertising and distribution of erotic and pornographic material and films, an offence under Article 242 of the Criminal Code. Pryanishnikov challenged the refusal before the Commercial Court of Moscow, which upheld the refusal, as did the Commercial Appeal Court and the Federal Commercial Court of the Moscow Circuit. The charges of producing and distributing pornography were subsequently dropped.

Before the ECtHR, Pryanishnikov alleged that the refusal to grant him a film reproduction licence had violated his freedom of expression. In essence, he argued that the domestic decisions refusing to grant him a film reproduction licence had not contained any proof that he had ever distributed pornography. The Russian Government argued that the interference was prescribed by law and pursued the legitimate aims of protecting morals and the rights of others, in particular protecting children from access to pornographic material.

First, the ECtHR referred to the general principles concerning freedom of expression, also reiterating that freedom of expression includes freedom of artistic expression – notably within freedom to receive and impart information and ideas – which affords the opportunity to take part in the public exchange of cultural, political and social information and ideas of all kinds. It also recalled the principle that those 'who create, perform, distribute or exhibit works of art contribute to the exchange of ideas and opinions which is essential for a

democratic society'. However, artists and those who promote their work are certainly not immune to the possibility of limitations, as provided for in Article 10, section 2 ECHR. Furthermore, under the third sentence of Article 10, section 1, states are permitted to regulate, by means of a licensing system, the way in which broadcasting, television or cinema enterprises are organised in their territories, particularly in respect of their technical aspects. The granting of a licence may also be made conditional on such matters as the nature and objectives of a broadcasting, television or cinema enterprise; its potential audience at national, regional or local level; the rights and needs of a specific audience; and the obligations deriving from international legal instruments. As regards the protection of morals as a legitimate aim to interfere with the right to (artistic) freedom of expression, the ECtHR observed that it is not possible to find a uniform European conception of morals. The view taken on the requirements of morals varies from time to time and from place to place. By reason of their direct and continuous contact with the vital forces of their countries, state authorities are, in principle, in a better position than the international judge to give an opinion on the exact content of these requirements, as well as on the necessity of a restriction or penalty intended to protect morals.

Next, the ECtHR observed that under the domestic law in force at the material time, a film producer needed a film reproduction licence to be able to make copies of his films for the purpose of selling, broadcasting, or distributing them to cinemas, video libraries or video rental facilities. Without such a licence, the applicant was therefore *de facto* unable to distribute them; hence, the refusal amounted to an interference with Pryanishnikov's right to freedom of expression. As this licencing duty was prescribed by law and pursued the legitimate aims of protecting morals and the rights of others, in particular children, it remained to be determined whether the interference was 'necessary in a democratic society'.

The ECtHR found that the domestic judgments – in so far as they relied on a suspicion regarding the involvement in producing and distributing pornography – were based on assumptions rather than on reasoned findings of fact. Therefore, the domestic courts did not provide relevant and sufficient reasons for the finding that Pryanishnikov produced or distributed pornography; and although, in their judgments, the domestic courts briefly referred to the need to protect minors from pornographic material, the ECtHR found no evidence that Pryanishnikov was ever suspected of distributing pornography to children. Next, it observed that the ban on distributing pornography in Russia was not limited to minors, and extended to any audience. The ECtHR referred to its judgment in *Kaos GL v. Turkey* (IRIS 2017-2/1) in which it found that even a temporary ban on distributing a piece of pornographic material to any audience was not justified. In that judgment, the ECtHR held that the domestic authorities could have applied a less restrictive measure, for example, a ban on selling the material in question to persons under eighteen years of age; an obligation to sell it with a special cover displaying a warning addressed to persons under eighteen years of age; or an obligation to sell it via a subscription only. Finally, the ECtHR observed that the refusal to grant a film reproduction licence made it impossible for the applicant to distribute any films, including the more than 1 500 films for which the competent

authorities had issued distribution certificates after verifying that they were not pornographic, or indeed any other audiovisual products or audio recordings on any types of medium, while there was no evidence in the text of the domestic judgments that the domestic courts weighed the impact which the refusal of a film reproduction licence would have on the film producer's ability to distribute the films for which he had distribution certificates or on his freedom of expression in general. The domestic courts therefore failed to recognise that the present case involved a conflict between the right to freedom of expression and the need to protect public morals and the rights of others, and failed to perform a balancing exercise between them. On this ground, the ECtHR unanimously came to the conclusion that such a far-reaching restriction on Pryanishnikov's freedom of expression, which deprived him of the opportunity to distribute any audiovisual products or audio recordings to any audiences, could not be considered justified. There was, therefore, no reasonable relationship of proportionality between the means employed and the aim sought to be achieved, and accordingly there has been a violation of Article 10 ECHR.

Judgment by the European Court of Human Rights, Third Section, Pryanishnikov v. Russia, Application no. 25047/05, 10 September 2019

http://hudoc.echr.coe.int/eng?i=001-195605

EUROPEAN UNION

GERMANY

Court of Justice of the European Union: German rules protecting press publishers overturned following procedural irregularities

Christina Etteldorf

In a judgment of 12 September 2019 in Case C-299/17 (VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH v Google LLC), the Court of Justice of the European Union decided that the German regulation that prohibits search engines from using short texts or text excerpts ('snippets') without the publisher's prior permission was inapplicable because it had not been notified to the Commission before it was adopted. It should have been notified because the corresponding provisions of Articles 87f and 87g of the German Gesetz über Urheberrecht und verwandte Schutzrechte (Copyright Act - UrhG) were technical regulations within the meaning of Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services.

The decision follows a lengthy dispute between VG Media – Germany's main collective management organisation that defends the copyright and related rights of private broadcasters and publishers of newspapers and magazines – and Google LLC, an American technology firm that, in particular, operates the search engine of the same name. On 1 August 2013, when Articles 87f and 87g UrhG entered into force, the right to protection of publishers of newspapers and magazines took effect. This prohibits only commercial operators of search engines and commercial service providers that edit content from making press products or parts thereof available to the public. The rules also require search engines and news aggregators to pay a fee to the press publisher to use digital press products. Individual words and very short text excerpts (known as 'snippets') are excluded. Since Google refused to pay these fees to VG Media, claiming that it was only publishing 'snippets' (the definition of which was disputed by the parties because of its broad legal definition), VG Media brought an action for damages before the Landgericht Berlin (Berlin Regional Court). Although the Landgericht thought that VG Media's action could be at least partially well-founded, it harboured doubts about the applicability of the 2013 provisions on the protection of publishers of newspapers and magazines. In a decision of 9 May 2017 (Case no. 16 O 546/15), the Landgericht therefore referred the case to the CJEU, asking whether the provisions constituted technical regulations within the meaning of Directive 98/34/EC and whether Germany

should therefore have notified them to the European Union.

In its judgment, the CJEU ruled that the provisions did constitute technical regulations in the sense of the 'rule on services' subcategory described in Article 1(5) of Directive 98/34, since they were 'specifically' aimed at information society services. It was clear from the wording of and reasons given for the German provisions that they were specifically aimed at information society services. Firstly, Article 87g(4) UrhG expressly referred, *inter alia*, to the commercial providers of search engines for which it was common ground that they provided services falling within the scope of Article 1(2) of Directive 98/34. Secondly, the observations submitted by the German Government, the parties and the European Commission at the hearing before the CJEU showed that the purpose of the regulations was clearly to protect the interests of German publishers of newspapers and magazines from copyright infringements by online search engines. In that context, the CJEU thought that protection appeared to have been considered necessary only for systematic infringements of the works of online publishers by information society service providers. The rules should therefore have been notified under Article 5(1), which was not the case here.

The judgment means that the provisions on the protection of publishers are inapplicable. The legal basis for VG Media's past activities linked to the protection of publishers of newspapers and magazines, such as the collection of fees, is therefore retrospectively removed. However, the judgment does not concern the implementation of the right of protection for publishers of press publications, provided for under Article 15 of Directive (EU) 2019/790 of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, which must be transposed into member states' national law by 7 June 2021. Germany will therefore have to consider the matter again as part of this process.

Judgment of the CJEU, Fourth Chamber, of 12 September 2019 in Case C-299/17, VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH v Google LLC, successor in law to Google Inc.

http://curia.europa.eu/juris/document/document.jsf?text=&docid=217670&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1

POLAND

Court of Justice of the European Union: Poland seeks annulment of Article 17 of the DSM Directive

Ronan Ó Fathaigh
Institute for Information Law (IViR), University of Amsterdam

On 12 August 2019, Poland's application to the Court of Justice of the European Union (CJEU) seeking annulment of a provision in the recently adopted Directive 2019/790 on Copyright in the Digital Single Market (DSM Directive) was published in the Official Journal of the European Union. The DSM Directive was adopted on 17 April 2019 (see IRIS 2019-4/5), and Poland's action was brought on 24 May 2019. The application seeks annulment of two provisions under Article 17 of the DSM Directive concerning the liability of "online content-sharing service providers" for content uploaded by users.

First, the application seeks annulment of Article 17(4)(b) and Article 17(4)(c), which (in lengthy wording) provides that content-sharing service providers shall be liable for unauthorised acts of communication to the public, including making available to the public, of copyright-protected works, unless the service providers demonstrate that they have done the following: "made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability of specific works and other subject matter for which the rightsholders have provided the service providers with the relevant and necessary information; and in any event, acted expeditiously, upon receiving a sufficiently substantiated notice from the rightsholders, to disable access to, or to remove from their websites, the notified works or other subject matter, and made best efforts to prevent their future uploads in accordance with point (b)".

Poland argued that these provisions infringe the right to freedom of expression under Article 11 of the Charter of Fundamental Rights of the European Union. In particular, it argued that the imposition on online content-sharing service providers of the obligation to make best efforts to ensure the unavailability of specific works for which rightsholders have provided the service providers with the relevant and necessary information, as well as the imposition of the obligation to make best efforts to prevent the future uploads of protected works for which the rightsholders have lodged a sufficiently substantiated notice, make it necessary for the service providers (in order to avoid liability) to carry out prior automatic verification (filtering) of content uploaded online by users. This makes it necessary to introduce "preventive control mechanisms". According to the application, such mechanisms "undermine the essence of the right to freedom of expression" and "do not comply with the requirement that limitations imposed on

that right be proportional and necessary”.

Poland seeks the annulment of Article 17(4)(b) and Article 17(4)(c), *in fine* (that is, the part containing the following wording: ‘and made best efforts to prevent their future uploads in accordance with point (b)’); and in the alternative, should the Court find that the provisions cannot be deleted from Article 17 without substantively changing the rules contained in the remaining provisions of that article, the Court should annul Article 17 in its entirety.

Skarga wniesiona w dniu 24 maja 2019 r. – Rzeczpospolita Polska przeciwko Parlamentowi Europejskiemu i Radzie Unii Europejskiej (Sprawa C-401/19)

http://curia.europa.eu/juris/document/document.jsf?text=&docid=216823&pageIndex=0&doclang=PL&mode=req&dir=&occ=first&part=1&cid=6858084

Action brought on 24 May 2019 — Republic of Poland v European Parliament and Council of the European Union, Case C-401/19, 12 August 2019

http://curia.europa.eu/juris/document/document.jsf?text=&docid=216823&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=6858084

PORTUGAL

Court of Justice of the European Union: Copyright protection cannot be based on aesthetic effect

Mariana Lameiras

Copyright protection does not apply when clothing design produces a specific aesthetic effect. That was the decision reached by the European Court of Justice on 12 September 2019 in respect of a dispute between two Portuguese companies (Judgment ECLI:EU:C:2019:721).

The case involved two companies that design, produce and commercialise clothing: G-Star Raw CV and Cofemel - Sociedade de Vestuário SA. Cofemel is a dominant company in the textile sector in Portugal and had been accused by G-Star Raw CV of copying the design and model of its jeans, sweaters and T-shirts. In other words, G-Star Raw CV claimed breach of its copyright.The Portuguese Supreme Court, which heard the dispute, asked the European Court of Justice for clarification – in the light of the Copyright Directive (Directive 2001/29) – because it was confronted with different interpretations of the meaning of "works". At issue in particular was the correct interpretation of article 2, paragraph a) of the Directive.

Under the Directive, authors of work have the exclusive right to authorise or prohibit the reproduction and distribution of that work; under Portuguese legislation, copyright protection also extends to designs and models of such work. However, it does not specify the specific requirements for such protection.

The decision of the European Court of Justice is clear when stating that works that are intellectual creations are protected by copyright and that, in certain situations, such protection can extend to designs and models. However, it must be demonstrated that such protection is necessary; this"necessarily implies the existence of an … object [that can be identified] with sufficient precision and objectivity" (paragraph 32 of the relevant decision of the Court of Justice, Judgment ECLI:EU:C:2019:721). Following the issuance of this decision, the existence of a design or model resulting in a specific aesthetic effect is no longer sufficient – in and of itself – for it to fall under the definition of "work".

Arrêt ECLI: EU: C: 2019: 721 - Arrêt de la Cour de justice de l'Union européenne (troisième chambre), rendu le 12 septembre 2019 dans l'affaire Cofemel - Sociedade de Vestuário SA / G-Star Raw CV, Demande de décision préjudicielle introduite par la Cour suprême du Portugal

(Supremo Tribunal de Justiça) dans le cadre de l'affaire C-683/17

http://curia.europa.eu/juris/document/document.jsf;jsessionid=AF02A2288238208F67D471DA4D5A509D?text=&docid=217668&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=6872492

Judgment ECLI:EU:C:2019:721 - Judgment of the Court (Third Chamber) of 12 September 2019 Cofemel – Sociedade de Vestuário SA v G-Star Raw CV, Request for a preliminary ruling from the Supremo Tribunal de Justiça Case C-683/17

NATIONAL

BELGIUM

[BE] A ‘Netflix tax’ in Flanders? The participation of non-linear broadcasters in the production of Flemish audiovisual works

Eva Lievens
Ghent University

Pursuant to a Flemish Decree of 29 June 2018, an obligation for non-linear television broadcasting organisations to participate in the production of Flemish audiovisual works on an annual basis was introduced in Article 157, paragraph 2 of the Flemish Media Decree.

This “incentive scheme” (*stimuleringsregeling*) applies both to non-linear television broadcasters that are established in the Flemish Community and to non-linear television broadcasters that are established in a member state of the European Union and offer non-linear television services aimed at the Flemish Community. A private non-linear television broadcaster can choose between two options for fulfilling its obligation: either a financial contribution to the (co-)production of Flemish audiovisual works; or an equivalent financial contribution to the Flemish Audiovisual Fund (*Vlaams Audiovisueel Fonds*, VAF). The latter contribution is spent by the VAF on Flemish, qualitative, independent co-productions in series form. Paragraph 3 requires non-linear broadcasters to provide the Flemish Media Regulator with a report on how the obligation has been met each year before 31 March. The Flemish Media Regulator will make this information public.

On 1 February 2019, a Decision was approved by the Flemish Government which provides more details on the obligatory participation of non-linear broadcasting organisations in the production of Flemish audiovisual works.

First of all, the Decision states that it is not applicable to non-linear television broadcasters whose annual turnover (which is specified in Article 4 of the Decision) is less than EUR 500 000. Additional exemptions might be applicable to actors (television broadcasters and service distributors) who are subject to other incentive schemes under Articles 154, 155, 156 and 184/1 of the Flemish Media Decree.

Every year (X), every non-linear television broadcasting organisation must inform

the VAF, the Flemish Media Regulator and the Flemish Government by registered letter before 15 February (for the year 2019, Article 19 of the Decision provides for an adjusted timeline) of their chosen form of participation ((co-)production or payment to the VAF) and the amount of the contribution – which should be equal to 2% of the turnover two years previously (X-2) – or must provide the Flemish Media Regulator with evidence to prove that it does not fall within the scope of the decision (based on data from X-2). If the organisation fails to notify, it will be assumed that it has chosen a flat-rate contribution to the VAF, which amounts to EUR 3 000 000 per year.

If an organisation chooses to participate by means of a financial contribution to original co-production projects, it must submit those projects to the Flemish Media Regulator who will assess their admissibility (based on a number of conditions detailed in Article 7 of the Decision – for instance, it must be an animation series, a documentary series or a fiction series) and decide on whether or not to authorise them.

If an organisation chooses to participate by means of a financial contribution to the VAF, it must transfer the amount at the latest by 30 April of that year. Paragraph 3 of Article 17 provides non-linear broadcasting organisations with the possibility of obtaining certain rights on productions that are realised with financial support from the VAF on the basis of the Decision, against payment of an additional financial contribution.

Decreet betreffende radio-omroep en televisie van 27 maart 2009

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2009032749&table_name=wet

Decree on radio broadcasting and television of 27 March 2009

Decreet van 29 juni 2018 houdende wijziging van diverse bepalingen van het decreet van 27 maart 2009 betreffende radio-omroep en televisie

http://www.ejustice.just.fgov.be/eli/decreet/2018/06/29/2018040490/staatsblad

Decree of 29 June 2018 amending various provisions of the Decree of 27 March 2009 on radio broadcasting and television

Besluit van de Vlaamse Regering betreffende de deelname van de particuliere niet-lineaire televisieomroeporganisaties aan de productie van Vlaamse audiovisuele werken, 1 februari 2019

http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/2019/03/18/140890.pdf

Decision of the Flemish Government on the participation of private non-linear television broadcasting organisations in the production of Flemish audiovisual

works, 1 February 2019

SWITZERLAND

[CH] Proposed Electronic Media Act replaced with rapidly implementable support measures

Franz Zeller
Federal Office of Justice, FOJ

The Swiss government (Bundesrat) has abandoned its plan to fundamentally reform media law. It had originally planned to replace the existing Radio- und Fernsehgesetz (Radio and Television Act – RTVG) with a new Bundesgesetz über elektronische Medien (Electronic Media Act – BGeM) and, in June 2018, had launched a public consultation with interested parties concerning its draft Electronic Media Act (see IRIS 2018-06/11).

Under the draft tabled in 2018, public funding for services forming part of the public service would no longer have been limited to radio and television. Online media would also have been eligible, except those that offered purely text-based content. The draft also provided for the creation of an independent Kommission für elektronische Medien (Electronic Media Commission – KOMEM). The government had hoped that this regulatory authority would ensure greater independence from the state in terms of the granting and monitoring of public service mandates. The regulatory constraints on media without such a mandate, on the other hand, were eased under the draft, which even proposed the complete deregulation of purely commercial radio services. The draft would not have brought Swiss law fully into line with the provisions of the revised EU Audiovisual Media Services Directive (AVMSD).

Responses to the government's plans were mixed, to say the least. Many of the 253 written submissions concerning the draft considered a new law unnecessary and thought a partial revision of the RTVG would suffice. Most cantons, political parties and media representatives rejected the proposal for an independent KOMEM. The proposed financial support for free online services was also controversial. Several respondents called for stronger support for regional radio and television providers, and greater funding for print media. They thought there was an urgent need for action to support the press, since falling revenue for print media was leading to the amalgamation of editorial teams and job cuts.

In view of the consultation results, the government decided not to introduce the original draft. Instead, on 28 August 2019, it adopted a package of measures that will simply amend existing laws. It thought measures to support the media that could be implemented efficiently and quickly were "sensible and necessary". The government will therefore submit its package of media support measures to the

Swiss Parliament in the first half of 2020.

Under the amended RTVG, the government plans to support online media that offer paid content to the public to the tune of CHF 50 million per year in the medium term. Free online services will not be funded. The government wishes to support online content on account of the growing democratic importance of digital media, which are difficult to finance through subscription and advertising revenue. Financial support will be available to anyone who tries to promote the long-term financial sustainability of online journalistic services by selling digital media content. Contrary to the draft Electronic Media Act, support will be offered to services that do not form part of the public service. Beneficiaries will only need to meet general requirements such as a minimum proportion of editorial content, a continuous service and compliance with journalistic standards.

On the government's behalf, the Departement für Umwelt, Verkehr, Energie und Kommunikation (Department for the Environment, Transport, Energy and Communication – UVEK) will now examine whether state aid systems in similar countries could also work in Switzerland.

Communiqué de presse du Gouvernement suisse (Conseil fédéral) du 28 août 2019: « Le Conseil fédéral propose un paquet de mesures en faveur des médias »

https://www.bakom.admin.ch/bakom/fr/page-daccueil/l-ofcom/informations-de-l-ofcom/communiques-de-presse.msg-id-76208.html

Swiss government media release of 28 August 2019: "Federal council proposes package of measures to support the media"

Rapport du Département fédéral de l'environnement, des transports, de l'énergie et de la communication (DETEC) sur les résultats de la procédure de consultation sur l'avant-projet de loi fédérale sur les médias électroniques (LME)

https://www.bakom.admin.ch/bakom/fr/page-daccueil/l-ofcom/organisation/bases-legales/consultations/consultation-sur-la-nouvelle-loi-sur-les-medias-electroniques.html

Report of the Department for the Environment, Transport, Energy and Communication on the results of the consultation on the draft Electronic Media Act, August 2019

CZECH REPUBLIC

[CZ] Broadcasting Council fined unfair commercial practice

Jan Fučík
Česká televize

The Council for Radio and Television Broadcasting – as the central administrative authority within the the field of its activities, as specified by § 7 (a). a) of Act No. 40/1995 Coll., on the regulation of advertising and amending and by supplementing Act No. 468/1991 Coll., on the operation of radio and television broadcasting – has issued a fine for unfair commercial practice.

The company on which the fine was imposed – Wise Women, Ltd., ID 04937961, with its registered office in Prague – was found to have committed an offence under the provisions of Article 2, para. b) of Act No. 40/1995 Coll. by virtue of inserting unlawful advise into a Wise Women's advertising andteleshopping that was broadcast on March 26, 2018 at 12.30 p.m. on the RELAX television programme. That constituted an unfair commercial practice under a special regulation – namely, Article 4 (3) of Act No. 634/1992 Coll. as well as article p) of Annex 1 to this Act. The presenter “cleaned” the so-called “physical chakras” of viewers calling in to the programme and presented the statements that she made about the health of the callers as facts; this could have caused them to neglect to seek professional medical care and to underestimate physical and mental problems. In connection with the health of one of the viewers, she offered her meditation CDs, ascribing to them curative and preventive effects, and taking advantage of the vulnerability of a person in a difficult situation. The presenter told the woman caller that her first two chakras – including bones, tendons, and joints – were “closed” and that in order to avoid problems in the future, she should buy her CD and “oxygenate” those chakras.

Lastly, it could be argued that the presenter acted indulged in practices that could be defined as charlatanism in order to take advantage of the woman’s difficult situation and to significantly influence her consumer decision-making.

For this offence the Council imposed a fine of CZK 500 000 (EUR 20 000).

Rozhodnutí Rady pro rozhlasové a televizní vysílání č.j.RRTV/2796/2019 ze dne 5. 2.2019

https://www.rrtv.cz/files/Pokuty/a3e9b178-61dc-4159-b54c-0bad95d6a360.pdf

Decision of the Council for Radio and Television Broadcasting File no. RRTV / 2796/2019 of 5 February 2019

GERMANY

[DE] Administrative Court suspends KJM decision on 'JusProg' youth protection system in summary proceedings

Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a decision taken in summary proceedings on 28 August 2019, the Verwaltungsgericht Berlin (Berlin Administrative Court) temporarily removed the immediate enforceability of a decision taken by the Kommission für Jugendmedienschutz (Commission for the Protection of Minors in the Media – KJM) denying the suitability of the 'JusProg' youth protection system. The court ruled that the KJM's decision that the Freiwillige Selbstkontrolle Multimedia-Dienstleister e.V. (FSM) had exceeded its scope of discretionary power by declaring the system suitable was unlawful.

On 2 February 2019, the FSM, a recognised German self-regulatory body, had been asked to assess the suitability of the 'JusProg' youth protection system, created by JusProg e.V.. Such systems enable content providers to assign age ratings to their content, which can be read by the relevant software. Children and teenagers whose Internet access is controlled by such a system can no longer access content that is inappropriate for their age group.

The FSM had originally classified the software as suitable. In May 2019, however, the KJM, Germany's central supervisory body for the protection of minors in private broadcasting and telemedia, had decided that 'JusProg' was unsuitable. According to the KJM's decision, which was implemented by the responsible media authority, the Medienanstalt Berlin-Brandenburg, the FSM had exceeded its scope of discretionary power in its assessment of the suitability of 'JusProg' under Article 11(1)(2) of the Jugendmedienschutz-Staatsvertrag (Inter-State Agreement on the protection of minors in the media - JMStV). The KJM's main criticism was that 'JusProg' did not cover a significant proportion of children's media consumption because it only worked on Windows PCs using the Chrome browser. At the same time, providers were strongly favoured by the approval system since they could distribute their age-rated content without any additional safeguards, even though the mobile devices and operating systems used by most children and young people were unable to read the age ratings.

The court disagreed. The FSM had not exceeded its scope of discretionary power and the JMStV in particular did not require youth protection systems to work across all platforms and devices. A youth protection system was deemed suitable

under Article 11 JMStV if it provided age-group differentiated access to telemedia and state-of-the-art identification performance. It should also be user-friendly and allow for autonomous use by consumers. The wording of the JMStV did not suggest that it should work on more than one operating system.

The court's decision in summary proceedings initially only applies to the immediate enforceability of the KJM's decision. A decision in the main proceedings has yet to be issued.

Pressemitteilung der Kommission für Jugendmedienschutz (KJM) vom 28. August 2019

https://www.kjm-online.de/service/pressemitteilungen/meldung/news/kjm-bedauert-entscheidung-des-vg-berlin-im-eilverfahren-zu-jusprog/

Press release of the Commission for the Protection of Minors in the Media (KJM) of 28 August 2019

[DE] Cartel authority approves ProSiebenSat.1 and RTL addressable TV and online video joint venture

Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels

The RTL Deutschland media group and ProSiebenSat.1 have established a joint demand-side platform known as ‘d-force’. Demand-side platforms (DSPs) enable advertisers, on a central platform, to buy advertising space for specific target groups on various channels, which is then placed in an automated algorithm-based system. They are the counterpart of so-called sell-side platforms (SSPs), which manage the sale of individual advertising spaces.

Both TV groups announced at the beginning of August that the German Bundeskartellamt (Federal Cartel Office) had approved their joint venture. In future, advertising customers will therefore be able to reach their target groups through addressable TV and online video more easily via the joint booking platform. The two media giants hope this will give them greater independence from global tech platforms.

The Cartel Office confirmed its decision in its list of current merger control proceedings. Its investigation focused on conditions in the various markets concerned by the merger and the practical effects the merger would have on competition. It generally begins the evaluation process, which lasts about one month, once it has received the full application documents. As long as the proposal does not appear problematic, the decision-making body informally approves the merger.

ProSiebenSat.1 and the RTL Deutschland media group each own 50% of d-force. They predict that by 2022, the addressable TV and online video market in Germany will be worth several billion euros. Around 18 million TVs in German-speaking countries are currently compatible with addressable TV and personalised advertising. Via the joint platform, advertisers will be able to book space across the entire portfolio of IP Deutschland and SevenOne Media, the marketing companies of RTL Television and the ProSieben Sat.1 group, respectively.

The project will also be open to additional partners. At an event at the end of June, Matthias Dang, CEO of IP Deutschland, said that Google would be invited to get involved.

Pressemitteilung der Mediengruppe RTL Deutschland, 07. August 2019

https://www.mediengruppe-rtl.de/pressemitteilung/d-force-Kartellamt-genehmigt-Joint-Venture-von-Mediengruppe-RTL-Deutschland-und-ProSiebenSat.1/

RTL Deutschland media group press release, 07 August 2019

Liste der laufenden Fusionskontrollverfahren des Bundeskartellamts

https://www.bundeskartellamt.de/DE/Fusionskontrolle/LaufendeVerfahren/laufendeverfahren_node.html

List of current merger control proceedings of the Federal Cartels Office

[DE] OLG Düsseldorf expresses serious doubt over legality of Bundeskartellamt's Facebook decision

Christina Etteldorf

In a decision of 26 August 2019 (Case no. VI-Kart 1/19 (V)), the Oberlandesgericht Düsseldorf (Düsseldorf Higher Regional Court – OLG Düsseldorf) temporarily lifted the order issued against Facebook by the Bundeskartellamt (Federal Cartel Office – BKartA) at the start of the year concerning the social network's combination of user data (see IRIS 2019-4/10). It thought the prohibition notice and termination order issued by the Cartel Office were potentially unlawful and should therefore not take effect until a final court decision had been reached.

The OLG Düsseldorf's judgment followed the Cartel Office's decision of 6 February 2019 in which it had issued a prohibition notice against Facebook Inc. (USA), Facebook Ireland Ltd. and Facebook Germany GmbH, primarily concerning their plans to combine user data from Facebook-owned services. On competition law grounds, Facebook was prohibited in particular from only allowing private users resident in Germany to use its social network if it could assign data collected from its other services – WhatsApp, Oculus, Masquerade and Instagram – and from third-party websites that contained Facebook interfaces to their Facebook account without their specific consent. A termination order was also issued against the company. The decision was based on the fact that Facebook had infringed Article 19(1) of the Gesetz gegen Wettbewerbsbeschränkungen (Act against restraints of competition - GWB) by abusing its dominant position in the market for social networks for private users in Germany. It had done so by requiring private users, when registering for its network, to agree to contractual conditions that were inappropriate in view of the data protection law assessments conducted under the General Data Protection Regulation (GDPR) and that allowed Facebook to collect, link and use additional data generated outside its network. Facebook lodged an appeal against the Cartel Office's decision with the OLG Düsseldorf and applied for interim relief.

The OLG Düsseldorf upheld Facebook's appeal. It agreed there were 'serious doubts' about the legality of the Cartel Office's decision, as required under Article 65(3)(1)(2) GWB to give suspensive effect to an appeal against such a decision. Contrary to the Cartel Office's view, it thought that the data processing carried out by Facebook which was the subject of the complaint did not give rise to any relevant competitive damage or undesirable development of competition. This applied with regard both to exploitative abuse to the detriment of users of the Facebook social network and to exclusionary abuse to the detriment of a current or potential competitor of Facebook. Although the OLG Düsseldorf confirmed that Facebook held a dominant market position, it could not be found to have violated the abuse prohibition of Article 19(2)(2) GWB (exploitative abuse) because the Cartel Office "did not carry out sufficient investigations into an "as-if" competition and, as a result, did not make any meaningful findings on the question of which terms of use would have been formed if effective competition had existed". The court also had serious doubts over whether Article 19(1) GWB as a general clause had been violated because the data processing did not

damage competition. The submission of the data did not weaken the consumer economically or result in a loss of control because users knowingly and willingly submitted their data. A violation of the GDPR alone was, in any case, not sufficient evidence of anti-competitive behaviour. The Cartel Office had also failed to provide proper, well-founded and plausible evidence that Facebook had hindered its competitors.

The Cartel Office's decision against Facebook, which had received significant international attention, therefore does not have to be immediately implemented by Facebook. However, a final decision will be taken as part of the main proceedings. In view of the clarity and scope of the OLG's decision, which extends far beyond the type of summary examination normally conducted in interim relief proceedings, it is not difficult to guess what the outcome of the case will be.

Beschluss des OLG Düsseldorf (Az.: VI-Kart 1/19 (V)), 26. August 2019

http://www.olg-duesseldorf.nrw.de/behoerde/presse/Presse_aktuell/20190826_PM_Facebook/20190826-Beschluss-VI-Kart-1-19-_V_.pdf

Decision of the Düsseldorf Higher Regional Court (case no. VI-Kart 1/19 (V)), 26 August 2019

[DE] Supreme Court rules that report on nude photo blackmail can infringe privacy rights

Marius Drabiniok
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a ruling of 30 April 2019 (Case no. VI ZR 360/18), the Bundesgerichtshof (Federal Supreme Court – BGH) decided that the BILD newspaper had infringed the right to privacy of pop star Lena Meyer-Landrut by publishing a report about nude images of the singer.

The report followed the theft, by unknown individuals, of a laptop owned by the singer's boyfriend that contained private images of the singer. The thieves then demanded that the singer pay a large sum of money to prevent them from publishing the images. The BILD newspaper wrote that "spicy photos of the pop star" would be accessible "with just a few clicks". "The singer can be seen naked or in just her underwear." The report also quoted tweets posted by the alleged blackmailers announcing the publication of the pictures. However, the newspaper did not publish the images themselves. Lena Meyer-Landrut asked the court for an injunction against the publication of the report.

Whereas the singer's application had been granted in the first instance, the Kammergericht Berlin (Berlin Appeal Court) rejected her claim. It argued in particular that there was a justifiable public interest in reports on matters involving a social phenomenon. Since both private individuals and celebrities could be victims, the singer had to accept an intrusion into her privacy. However, the sixth civil chamber of the Federal Supreme Court decided that the report had unlawfully infringed the singer's privacy in a manner that could not be justified under the freedom of the press or freedom of expression. The singer was therefore entitled to an injunction under Article 1004(1)(2) in conjunction with Article 823(1) of the Bürgerliches Gesetzbuch (Civil Code – BGB).

In the BGH's opinion, the infringement of the singer's privacy was mainly linked to the tone of the report. By using the terms "intimate photos", "private videos" and "naked selfies", the newspaper had made it clear that the images were of a sexual nature. Since the pictures were meant only for Lena Meyer-Landrut's boyfriend, they should be considered part of her sex life and, therefore, part of her private life. In this context, it was irrelevant whether or not the images could actually be seen in the article published in the BILD newspaper. It was true that the tabloid had brought up a topic of social importance – the unauthorised distribution of nude photos on the Internet ('sex leaks') – and suggested how such risks could be avoided or at least reduced. However, the singer's right to protection of her privacy outweighed the interest in reporting the story because the article had an 'enticing' effect and could cause readers to look for the pictures themselves. The publication of the blackmailers' tweets also showed readers "how the complainant, against her will, is seen simply as an object by people who view the images". The crime that had already been committed meant the singer had an even greater right to protection.

Urteil des Bundesgerichtshofs vom 30. April 2019 (Az: VI ZR 360/18)

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=98809&pos=0&anz=1

Ruling of the Federal Supreme Court of 30 April 2019 (case no. VI ZR 360/18)

[DE] Supreme Court upholds decision against operators of Altermedia Deutschland web platform

Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a recently published decision of 5 June 2019, the German Bundesgerichtshof (Federal Supreme Court – BGH), Germany's highest civil and criminal court, largely confirmed several prison sentences imposed against the operators of the right-wing extremist Internet platform 'Altermedia Deutschland'. The defendants had appealed against a ruling of the Oberlandesgericht Stuttgart (Stuttgart Higher Regional Court) imposing immediate or suspended prison sentences on one of them for leading a criminal organisation and sedition, and on the others for being members of a criminal organisation and sedition or aiding and abetting sedition. The sentence of one defendant, accused of aiding and abetting sedition, was quashed, but otherwise the appeal was dismissed.

The defendants operated the 'altermedia-deutschland.info' web portal between 2012 and 2016. Until it was shut down, the website featured content aimed at supporters of radical right-wing and Nazi ideology. Users of the site were also able to share opinions in online forums, where they posted illegal content and comments that incited violence against foreigners, refugees, Muslims and Jews by using terms such as parasites, scroungers, garbage and diseases. Denials of the murder of hundreds of thousands of Jews at the Auschwitz concentration camp and other crimes committed under Nazi rule were also published on the site. Sedition and the denial of acts carried out under Nazi rule are punishable in Germany under Article 130 of the Strafgesetzbuch (Criminal Code – StGB).

The court believed it was proven that the platform's operators had approved of the publication of such illegal content. The four defendants were given prison sentences ranging from eight months to two and a half years, some of which were suspended. The court stopped the proceedings concerning the aiding and abetting of sedition because no charges had been brought. The ruling is final.

The German Federal Ministry of the Interior had ordered the closure of the platform and its social media outlets in January 2016.

Pressemitteilung vom 31. Juli 2019 des Bundesgerichtshofs - Beschlüsse vom 5. Juni 2019 – 3 StR 337/18

https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2019/2019101.html?nn=1069086

Federal Supreme Court press release of 31 July 2019 – Decisions of 5 June 2019 – 3 StR 33 7/18

FRANCE

[FR] Conseil d'Etat clarifies scope of “must-carry” obligation of distributors of audiovisual services

Amélie Blocman
Légipresse

A decision taken by the Conseil d’Etat on 24 July 2019 finally ended a long-running dispute dating back to 2014 between the public broadcaster, France Télévisions, and the Playmédia company. Playmédia live-streams television programmes on its website (playtv.fr) and receives most of its funding from advertising. The Conseil d’Etat, referring to a judgment of the Court of Justice of the European Union (CJEU), explained the scope of the “must-carry” obligations of distributors of audiovisual services.

Article 34-2 of the Act of 30 September 1986 lays down a “must-carry” obligation requiring distributors of audiovisual services to “make available to their subscribers, free of charge”, terrestrially broadcast public radio and television channels. Claiming the status of a service distributor, Playmédia argued that these provisions entitled it to distribute the France Télévisions channels. However, this was disputed by the public broadcaster, which also live-streamed its channels on the site Pluzz.fr. Nevertheless, on 27 May 2015, the national audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel – CSA), ordered France Télévisions to comply with the must-carry obligation by ceasing to oppose Playmédia carrying its programmes. France Télévisions then asked the Conseil d’Etat to cancel the CSA’s decision and, at the same time, sued Playmédia for unfair competition and piracy.

Faced with the difficult task of interpreting the notion of a “distributor of services”, which has no equivalent in Community law, the Conseil d’Etat submitted several preliminary questions to the CJEU. It pointed out that, under Article 31(1) of the Universal Service Directive (2002/22), member states could only impose must-carry obligations if there were a significant number of end-users of electronic communications networks who used them as their principal means of receiving television broadcasts. Under French law, meanwhile, must-carry obligations applied to “distributors of services” (whether they used electronic communications networks or not), without the conditions set out in Directive 2002/22 – including the reference to a significant number of end-users. Since the CJEU had issued its reply on 13 December 2018 (case no. C-298/17), the Conseil d’Etat ruled on the merits.

In its judgment of 24 July 2019, it ruled that, under the CJEU’s interpretation, Playmédia’s activity was not covered by the must-carry obligation provided for in

Article 31 of the Directive. However, the CJEU had also stated that the provisions of the Directive did not prevent a member state, in a situation such as that in the present case, from imposing a must-carry obligation on undertakings which, without providing electronic communications networks, offered the viewing of television programmes via live-streaming on the Internet.

Although Playmédia, through its activities, was a distributor of services within the meaning of Article 2-1 of the Act of 30 September 1986, the must-carry obligation enshrined in Article 34-2 of the Act only applied to services distributed to “subscribers”. Referring to the preparatory work for the Act, the Conseil d’Etat considered that the notion of “subscribers” must mean users linked to the distributor of services in accordance with a commercial contract under which a payment is made.

In this case, in order to judge whether the condition laid down by Article 34-2 of the Act of 30 September 1986 concerning the distribution of the service to subscribers was met, the CSA noted that Playmédia’s offer was partly aimed at users who “subscribe to a contractual undertaking by accepting the general conditions for use, and by indicating a number of items of personal information such as e-mail address, date of birth and gender”. Since access to the service was offered free of charge, the Conseil d’Etat ruled that the CSA had wrongly applied these provisions. It accordingly annulled the CSA’s decision ordering France Télévisions not to oppose Playmédia’s carriage of its programmes.

Conseil d'État, 24 juillet 2019, N° 391519

Conseil d'Etat, 24 July 2019, no. 391519

Arrêt n°640 du 4 juillet 2019 (16-13.092) - Cour de cassation

Court of Cassation judgment no. 640 of 4 July 2019 (16-13.092)

[FR] Court of Cassation rules on deep links and audiovisual communication company's neighbouring rights

Amélie Blocman
Légipresse

In a judgment of 4 July 2019, the Court of Cassation drew a line under the intellectual property element of the dispute between public broadcaster France Télévisions and Playmédia, a company that live-streams television programmes on its website (playtv.fr) and receives most of its income from advertising.

In 2016, Playmédia was ordered by the Paris Appeal Court to pay EUR 200 000 to France Télévisions for infringing its “neighbouring rights” and EUR 150 000 on the grounds of unfair competition for allowing access to its playtv.fr website to programmes broadcast by France Télévisions on its own Pluzz site using deep links and “transclusion” technology without the company’s authorisation. Transclusion involves dividing a web page into several frames and displaying in one of them, through so-called “inline linking”, an element of another site while concealing its original environment. The links that Playmédia created therefore did not direct the user to the Pluzz site (on which the programmes could be watched), but rather enabled viewers on the playtv.fr site to access specific works directly and to watch them on the site after viewing an advertisement inserted by Playmédia.

France Télévisions argued that, from 20 November 2014 onwards, it was its neighbouring rights as an audiovisual communication company (as protected by the second paragraph of Article 3 of Directive 2001/29/EC) that had been infringed, and not its copyright. As the Appeal Court had stated, Article 3(2) of the Directive did not prevent national regulations extending broadcasters’ exclusive right to cover acts of communication to the public, which could include the live transmission of sports events on the Internet through the insertion on a website of clickable links through which users could access the live transmission on another site.

Article L. 216-1 of the Intellectual Property Code gives audiovisual communication companies the right to authorise the reproduction and broadcasting of their programmes. The Court of Cassation therefore shared the Appeal Court’s view that France Télévisions, as an audiovisual communication company, had the exclusive right to authorise making its programmes and the works distributed on its Pluzz site available to the public online.

It also ruled that the Appeal Court had identified acts of unfair competition that were distinct from those concerning the live broadcast of programmes that had been sanctioned for copyright infringement. The appeal was therefore dismissed and the Paris Appeal Court’s ruling was upheld.

Cour de cassation (1re ch. civ.), 4 juillet 2019, France Télévisions c/ Playmédia

https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/640_4_43087.html

Court of Cassation (1st civil chamber), 4 July 2019, France Télévisions v Playmédia

[FR] Culture Minister clarifies various aspects of audiovisual reforms

Amélie Blocman
Légipresse

At the start of September, the French Minister of Culture, Franck Riester, hosted key representatives of the audiovisual sector for a final series of consultations concerning the previously announced audiovisual reforms. After its subsequent examination by the *Conseil Supérieur de l'Audiovisuel* (the national audiovisual regulatory authority – CSA) and the *Conseil d'Etat*, the draft law should be presented to the Council of Ministers in early November before being discussed by the National Assembly in January 2020.

One objective of the reforms is to "provide a level playing field for television channels competing with digital providers without an increase in advertising". It is therefore proposed that, for a one-year trial period, television channels will be able, under supervision, to experiment with "addressable" and location-based advertising that targets a specific audience or viewer – a service that broadcasters cannot currently offer to their advertisers. The draft also creates the possibility for cinema films to be advertised on television, which is currently prohibited. A third commercial break could be authorised during films longer than 90 minutes on private channels, while the rule requiring a 20-minute gap between commercial breaks could be relaxed.

Under the reforms, there will no longer be certain days on which films cannot be shown on television (currently Wednesdays, Fridays and Saturdays), since these rules have become obsolete in the age of SVOD. As regards relations between producers and broadcasters, the draft redefines "independent" production, setting out a stricter definition of the rights of television channels and producers. SVOD platforms such as Netflix will be obliged to invest in European and French works in the same way as unencrypted channels (around 16% of their turnover – the exact percentage will vary from one platform to another) in return for a more favourable media chronology.

The provisions of the decrees of 27 March 1992 and 2 July 2010 setting out advertising and production obligations will therefore be revised. Draft decrees on advertising and film broadcasting restrictions are due to be submitted to the *Conseil d'Etat* for an opinion at the end of November and then published in January – before the law has even been adopted.

With regard to the regulation of the audiovisual sector, the CSA and the Hadopi (High Authority for the Dissemination of Works and the Protection of Rights on the Internet) are set to merge and become known as the "Autorité de régulation de la communication audiovisuelle et numérique" (Regulatory Authority for Audiovisual and Digital Communication).

On 25 September, the Minister of Culture also decided to create a holding company for public audiovisual services, known as France Médias. The parent

company will hold 100% of the capital of daughter companies France Télévisions, Radio France, France Médias Monde (RFI and France 24) and the INA (National Audiovisual Institute). Arte France, LCP and TV5 Monde will not be part of the new company. The way in which the heads of public audiovisual services are appointed will also be changing. Currently chosen directly by the CSA, they will in future be selected by the boards of the companies concerned, including that of France Médias.

Lastly, the draft will also contain provisions concerning the fight against piracy – especially in respect of sports content. In particular, it will transpose Articles 17 and 18 of the Directive on Copyright in the Digital Single Market concerning the protection of works on online content-sharing platforms.

Les objectifs du projet de loi sur l'audiovisuel, Ministère de la Culture, 13 septembre 2019

https://www.culture.gouv.fr/Actualites/Les-objectifs-du-projet-de-loi-sur-l-audiovisuel

The objectives of the draft audiovisual law, Ministry of Culture, 13 September 2019

[FR] Google has no intention of paying neighbouring rights to French press publishers

Amélie Blocman
Légipresse

Taking note of the entry into force on 25 October this year of the Act of 24 July 2019 allocating a “neighbouring right” to press publishers and agencies when their content is taken up on on-line platforms and other aggregators, Google announced its intention to “make changes in the way news-related search results are displayed”. It should be recalled that although France is the first country to have transposed Article 15 of the new Copyright Directive, other countries should also be falling into line.

Under the new Act, the search engine’s use of article excerpts (‘snippets’) may be negotiated in the form of a licence agreement with the relevant publishers, if such excerpts are read rather than the original article. But Google has no intention of paying.

Currently, news-related search results display a title, with a link that goes directly to the relevant information site. In some cases, the search engine offers an overview of the article, such as a few lines of text or a small image (known as a ‘thumbnail’). Google has announced that it will stop posting in France overviews of European news publishers’ content, unless a publisher has taken steps to signify that it consents to Google displaying an overview. Publishers would be able to specify how much information they want to appear in an overview shown in a search result without any remuneration. This new form of display would apply in respect of the results of searches carried out using any of Google’s services (including its search engine and the French version of Google News).

Justifying the company’s decision, Google Vice-President of News Richard Gingras posted on his blog: “In Europe alone, people click on the news content Google links to more than 8 billion times a month - that’s 3,000 clicks per second ... We’ve also created advertising and subscription tools that help publishers grow new revenue.” He noted that Google had invested 300 million dollars over the past three years through the Google News Initiative, which he said was aimed at helping news publishers and thereby contributing to growth in on-line journalism.

France’s Minister for Culture, Franck Riester, reacted to the announcement by saying, "The political objective pursued by the creation of the neighbouring right, and its transition into law, are obvious: to allow the fair sharing of the value produced, for the benefit of platforms, by press content. From this point of view, Google’s proposal is not acceptable.” The Minister is calling for “a genuine global negotiation between Google and publishers: the unilateral definition of the rules of the game is contrary to both the spirit of the Directive and to its text.“ Mr Riester has announced his intention to discuss the matter with his European

counterparts.

Nouvelles règles de droit d'auteur en France : notre mise en conformité avec la loi. Google blog, 25 septembre 2019

https://france.googleblog.com/2019/09/comment-nous-respectons-le-droit-dauteur.html

Google blog, 25 September 2019

UNITED KINGDOM

[GB] Political activist imprisoned after contempt of court retrial

Julian Wilkins
Wordley Partnership and Q Chambers

The former leader of political activists the English Defence League (EDL) Tommy Robinson (his real name is Stephen Yaxley-Lennon) was imprisoned for nine months after a retrial by judges of the Central London Criminal Court (known as the Old Bailey) concerning an incident which occurred in May 2018, when, outside Leeds Crown Court, he filmed defendants attending trial accused of the sexual exploitation of young girls. The footage, which was in breach of a reporting ban, was livestreamed from outside Leeds Crown Court while the jury was considering its verdict. Mr Robinson argued in his defence that information about the defendants had already been made public.

After the 2018 incident, Robinson was sentenced to 13 months' imprisonment after being found guilty of contempt of court, but was freed after two months, when the Court of Appeal overturned the finding of contempt.

Upon referral, the Attorney General announced that it was in the public interest to bring fresh proceedings.The Attorney General considered that Robinson’s “whole objective” was to “get the defendants’ faces out there”.

Robinson's broadcast on 25 May 2018 was viewed 250 000 times online after being livestreamed. An existing reporting restriction had postponed the publication of any case details until the end of a series of linked trials involving 29 people in order to help ensure that all concerned received a fair trial.

Prior to the reporting restriction, at least one newspaper had reported the identity of the defendants. In his defence, Mr Robinson argued that the details were already in the public domain and that his freedom of expression entitled him to reveal details of the defendants.

However, judges at the retrial of Mr Robinson’s contempt of court indictment considered that his conduct “amounted to serious interference with the administration of justice”. One of the judges, Dame Victoria Sharp, said that he had breached a reporting restriction imposed on the trial by livestreaming the video from outside the public entrance to the court and by “aggressively confronting and filming” some of the defendants. “In our judgment, the

respondent's conduct in each of those respects amounted to a serious interference with the administration of justice."

During the retrial, judges heard evidence that a security officer at Leeds Crown Court had suggested Mr Robinson check with the court office for any reporting restrictions. They considered that the "critical question" was why Robinson had "declined the invitation to take this obvious step which would have put the matter beyond doubt".

Regarding Mr Robinson's public domain defence where he referred to details of previous reports concerning the sexual exploitation case, including the defendants' names and charges, which had been published in the Huddersfield Examiner, the Old Bailey judges determined that the publication had been issued before the reporting ban and was not a justification or context for continued reporting.

The Old Bailley judges concluded, "We are entirely satisfied that [Robinson] had actual knowledge that there was an order in force restricting reporting of the trial," and they ended by saying, "He said as much, repeatedly, on the video itself."

Mr Robinson was found to have committed contempt for having breached a reporting restriction, risked impeding the course of justice and interfered with the administration of justice by "aggressively, and openly filming" the arrival of defendants at court. "The dangers of using the unmoderated platforms of social media, with the unparalleled speed and reach of such communications, are obvious."

The judges continued, "Harassment of the kind he was describing could not be justified ... There was plainly a real risk that the defendants awaiting jury verdicts would see themselves as at risk, feel intimidated, and that this would have a significant adverse impact on their ability to participate in the closing stages of the trial."

The judges dismissed Mr Robinson's defence that his broadcast was legitimate freedom of expression. The judges considered fair trial rights were qualified free speech. "Here, we are concerned with interferences with the administration of justice that fall short of subverting the right to a fair trial. However, we are satisfied that our interpretation and application of the law of contempt is consistent with the [European] convention [on human rights]."

R v Stephen Yaxley-Lennon (aka Tommy Robinson) [2018] EWCA Crim 1856; UK Government Press Release

https://www.judiciary.uk/judgments/r-v-stephen-yaxley-lennon-aka-tommy-robinson/

Her Majesty's Attorney General v Stephen Yaxley-Lennon- In the High Court of Justice Queen's Bench Division, Divisional Court

https://www.judiciary.uk/judgments/attorney-general-v-stephen-yaxley-lennon-

decision-on-penalty/

ITALY

[IT] AGCOM launches procedure to identify positions harmful to pluralism in the online advertising sector

Ernesto Apa & Maria Cristina Michelini

On 9 September 2019, the Italian Communications Authority ("AGCOM") published resolution no. 356/19/CONS ("Resolution") with a view to starting a procedure for identifying the existence of dominant positions or positions that are at any rate harmful to pluralism in the online advertising sector.

More specifically, Article 43, para. 2 of Legislative Decree no. 177/2005 ("the TUSMAR", or "AVMS Code") establishes that AGCOM has the power to initiate such a procedure with the goal of verifying the existence of dominant positions (or positions that are at any rate harmful to pluralism) on the basis of specific indices provided by law. The TUSMAR vests in AGCOM such power more broadly in relation to markets falling within the Integrated System of Communications – the so-called *Sistema Integrato delle Comunicazioni* ("SIC") – which expressly includes online advertising (as spelled out in para. 10 of the same Article 43).

In the event that AGCOM identifies a dominant position, it can enforce measures provided by Article 43, para. 5 of the TUSMAR – i.e. measures that are necessary in order to remove or dominant market positions that are harmful to pluralism . Such measures may be either behavioral or structural (subject to the "proportionality principle"): they may range from simple cease-and-desist orders to divestment or "hold-separate" orders. In particular, AGCOM can intervene to eliminate or prevent the creation of such positions by taking those measures that are most appropriate in the light of the changing characteristics of the markets concerned.

In the event that AGCOM determines the existence of a dominant position or a position that is at any rate harmful to pluralism, it will intervene by initiating an investigation, at the end of which it may adopt the necessary measures. The investigation may be preceded by the issuance of a warning notice – thus giving the undertaking a chance to act spontaneously to remove any cause for concern – in the event that a breach of the ban on creating a dominant position (or at any rate, a position harmful to pluralism) is viewed as a possibility but has not yet been realised (Article 43, para 3 of the TUSMAR). In any case, any action by an undertaking (including concentrations and agreements) necessarily contributing to the creation of a dominant position or a position harmful to pluralism in a market that falls under the Integrated System of Communications shall be deemed null and void under law (Article 43, para. 4 of the TUSMAR).

As provided by Article 1, para. 4 of the Resolution, the procedure launched by AGCOM will end within 180 days of the date of its publication (9 September 2019) on the AGCOM's website.

Autorità per le garanzie nelle comunicazioni, Delibera n. 356/19/CONS, Avvio del procedimento volto all'individuazione del mercato rilevante nonché all'accertamento di posizioni dominanti o comunque lesive del pluralismo nel settore della pubblicità on line, ai sensi dell'art. 43, comma 2, del decreto legislativo 31 luglio 2005, n. 177

https://www.agcom.it/documents/10179/15576788/Delibera+356-19-CONS/a014d46f-f279-4a53-98da-510d589c2f6b?version=1.0

Italian Communications Authority, Resolution no. 356/19/CONS, Initiation of the procedure aimed at identifying the relevant market and ascertaining dominant positions or positions detrimental to pluralism in the online advertising sector, pursuant to art. 43, paragraph 2 of legislative decree n. 177 of 31 July 2005

NETHERLANDS

[NL] Court orders Dutch broadcaster BNNVARA to broadcast rectification over YouTube episode

Lauren Power
Institute for Information Law (IViR)

In a decision of 11 July 2019, the Midden-Nederland District Court ordered broadcaster BNNVARA to broadcast a rectification in respect of a #BOOS YouTube episode ("boos" means "angry" in Dutch). The episode contained unproven and incorrect statements about two Dutch real estate entrepreneurs, according to the court. The YouTube series calls upon angry viewers to complain about various topics, such as dismissals, lost packages or expensive mobile phone subscriptions. In each episode the host aims to solve an angry viewer's problem. #BOOS has won various awards, such as the Best Social Award 2019 for best YouTube series.

The following statements are at the heart of the proceedings before the court. It was alleged that the real estate entrepreneurs wrongly charged brokerage fees when concluding tenancy agreements, and had deliberately allowed a company to go bankrupt in order to avoid paying creditors. Lastly, the episode contained the statement that the real estate entrepreneurs had established a new company with the aim of circumventing the law. The two real estate entrepreneurs requested the court to order BNNVARA to remove the episode and to broadcast a rectification; for its part, BNNVARA asked the court to refuse the entrepreneurs' request.

The court balanced the right to freedom of expression with the right to respect for private and family life, and more specifically, the right to protection of reputation and good name. The court firstly note that the answer to the question of which fundamental right outweighed the other depended on the particular circumstances of the case. The court continues by listing the relevant factors that ha to be considered when assessing which fundamental right was to prevail. According to the court, these include: (i) the nature of the published statements and the seriousness of the expected consequences for the person to whom these statements relate; (ii) the seriousness – from the point of view of the general interest – of the wrongdoing that is being exposed; (iii) the extent to which the statements are supported by the available factual material at the time of publication; (iv) the manner in which the statements in question have been created and presented; (v) the authority that the medium on which the statements are published enjoys; and (vi) the social position of the person involved. The court point out that the relevant factors and the weight to be attached to them depended on the particular circumstances of the case.

The court continues by fact-checking each statement contained in the episode in question. The statement that the real estate entrepreneurs wrongly charged brokerage fees was indeed factually correct. The statement that the real estate entrepreneurs had deliberately allowed a company to go bankrupt cannot be proven, because the company had been dissolved and its existence had been terminated. The statement that a new company had been established with the aim of circumventing the law is incorrect.

The court helds that the unproven and incorrect statements cannot justify the removal of the entire episode in question. Firstly, the incorrect statements had been partially revoked by BNNVARA. The broadcaster had previously added a statement to the video's description box to the effect that the company had not gone bankrupt, but that it had been dissolved and its existence had been terminated. Secondly, the statements are not of such a severe nature when assessed in the light of the entire episode. Instead, the court prescribed the text of a rectification statement, and ordered BNNVARA to broadcast that rectification in the first 30 seconds prior to the running of the episode concerned. BNNVARA re-uploaded the episode to YouTube with the ordered rectification on the day of the delivery of the court's decision.

Rechtbank Midden-Nederland, 11 juli 2019, ECLI:NL:RBMNE:2019:3108

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBMNE:2019:3108

District Court of Midden-Nederland, 11 July 2019, ECLI:NL:RBMNE:2019:3108

[NL] Court prohibits journalist from publishing certain classified information

Lauren Power
Institute for Information Law (IViR)

In a decision of 12 July 2019, the Amsterdam District Court prohibited a journalist from publishing certain information in a forthcoming book. According to the court, the argument that the publication of the information could put a source from the Dutch secret service in a life-threatening situation was sufficiently convincing.

Investigative journalist Huib Modderkolk works for the Dutch newspaper De Volkskrant. The journalist intended to publish a book entitled “Het is oorlog maar niemand die het ziet” ("It's war, but no one sees it") in September 2019. The journalist sent a manuscript to the Dutch secret service (Algemene Inlichtingen- en Veiligheidsdienst) (AIVD). The secret service informed the journalist that 13 words in the manuscript led to the traceability of their source.

The Dutch Government requested that the court prohibit the journalist from publishing the passage in the book. The journalist argued that he should be able to fulfill his duty as a public watchdog and that including the passage in the book was essential for the credibility of the book. He also argued that the secret service had used power play in this case, based on the request for a high penalty payment and the fact that the secret service also wanted to file a criminal report against him. The journalist also challenged the statement that publishing the passage in the book would put the secret service’s source in a life-threatening situation. The passage is not included in the judgment and, because the information in this case is highly confidential, the published judgment has also been considerably redacted.

After noting that a prohibition to publish the book would constitute an interference with the journalist and the publisher's right to freedom of expression, the court assessed whether this interference was justified. According to the court, an interference is prescribed by law if the publication is unlawful within the meaning of Article 6:162 of the Dutch Civil Code. To determine whether a publication is unlawful, the interests of the parties must be balanced. The interest of the journalist and the publisher was to be able to express critical, informative, opinion-forming and warning views in public about abuses that affect society. The state's interest lay in the protection of national security; the prevention of disorder and criminal offences; the protection of health; and the prevention of the distribution of confidential information. The court pointed out that in order to balance the interests of the parties, all circumstances of the case had to be taken into account.

At the heart of these proceedings was the question of whether the argument that

publishing the book would put the secret service's source in a life-threatening situation was sufficiently convincing. The court firstly noted that this case concerned a request for preventative censorship. Both parties agreed that a prohibition to publish the book qualified as censorship that could only be justified if the publication led to irreversible damage. The court continued by considering that by including the passage in the book, the number of people that could be identified as the secret service's source was likely to be significantly reduced. The information could, in combination with other information, reveal the time period of certain events, which, in combination with the knowledge of the country in which the source could be found, increased the chance of exposure. The court acknowledged that it was not possible to pinpoint the chances of the information in the book endangering the life of the source; however, according to the court, this risk could not be neglected in advance.

The court prohibited the journalist from publishing the passage in the book because it considered that the interest of the journalist and the publisher must give way to the interest of the state in safeguarding the source. The court also issued a penalty payment of EUR 25 000 for each book edited if the order were to be breached, with a maximum penalty of EUR 250 000.

Rechtbank Amsterdam, 12 juli 2019, ECLI:NL:RBAMS:2019:5017

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2019:5017

Amsterdam District Court, 12 July 2019, ECLI:NL:RBAMS:2019:5017

ROMANIA

[RO] Audiovisual rules for the 2019 Presidential elections

Eugen Cojocariu
Radio Romania International

On 3 September 2019, the *Consiliul Naţional al Audiovizualului* (National Audiovisual Council - CNA) adopted Decision No. 781/2019 with regard to the rules which apply to the audiovisual electoral campaign for the election of the President of Romania in 2019 (see, *inter alia*, IRIS 2009-10/24 and IRIS 2014-10/30).

The elections will be held on 10 November 2019 (first round) and on 24 November 2019 (second round). As a first, the elections abroad, for Romanians living outside the country, will last 3 days for each round (8-10 November and 22-24 November, respectively). The audiovisual electoral campaign will start on 12 October at midnight and will end on 9 November at 7 a.m. local time, 24 hours before the opening of the voting sections, according to Article 1(1).

The candidates' access to public and commercial radio and television services is equal and free of charge [Article 2 (1)]. Broadcasters have to observe the principles of fairness, balance, and impartiality in relation to electoral opponents [Article 3 (1)]. According to paragraph (2), broadcasters have an obligation to ensure that during promotional electoral shows, as well as in the content of the commercials and other audiovisual materials offered by the candidates, the following conditions are met: a) the constitutional order, the public order, and the security of people and goods must not be endangered; b) there must not be incitement to hatred on the basis of political beliefs, race, religion, ethnicity, nationality, sex or sexual orientation, nor to violence; c) the material must not contain statements or images that may affect human dignity, the honour or privacy of a person, the right to one's own image or content that is contrary to good manners; d) the material must not contain criminal or moral charges against other candidates without being accompanied by relevant evidence, explicitly presented. Paragraph (3) provisions that the producers, presenters and moderators of electoral debates also have the following obligations: a) to ensure that the debate is maintained in the area of electoral issues; b) to intervene when guests violate, through behaviour or expression, the rules provided for in paragraph (2); if the guests do not comply with their requests, the moderator may decide to interrupt the microphone or stop the broadcast, as the case may be; c) to request explicit evidence when participants bring charges of criminal or moral accusations against other candidates, so that the public can form a correct

opinion. Paragraph 4 stipulates that if in debate programmes, the candidates, or the representatives of political parties, political alliances or electoral alliances that support candidates, do not show up, broadcasters will not postpone their antenna time; broadcasters have an obligation to broadcast the programme with those who did show up, for the initially scheduled duration; in case the absentees motivate their non-participation in the programme, broadcasters have the obligation to present their motivation during the respective show.

During the election campaign, candidates and representatives of electoral contenders cannot be producers, presenters or moderators of public and private broadcasters' programmes [Article 4 (1)]. Those candidates who hold public office may appear in programmes other than electoral ones, but strictly on issues related to the exercise of their functions. In these situations, broadcasters are required to ensure the equidistance and pluralism of opinions [Article 4 (2)].

According to Article 5 (1), public and commercial broadcasters will only allow electoral contenders access to a) electoral promotion programmes, b) electoral debates and c) informative programmes. Paragraph (2) stipulates that the live or recorded broadcasting of meetings and electoral meetings, candidates' press conferences or other campaign activities are considered as electoral promotion programmes. Paragraph (3): electoral audiovisual materials, other than electoral publicity spots, made available to broadcasters by candidates, can be broadcast only in the broadcasts of electoral promotion. Paragraph (4): broadcasters are required to specify the capacity in which people invited on shows express themselves: candidates, representatives of candidates, members of a political party or representatives of political or electoral alliances that support candidates, journalists, analysts, commentators, political consultants, etc.

Article 6 (1) stipulates that broadcasters can air electoral publicity spots only within the electoral programmes provided for in Article 5, paragraph (1) lit. a) and b), subject to the following conditions: a) electoral publicity spots will only be broadcast if they are accompanied by an appropriate marking structure; b) electoral publicity spots cannot last longer than 30 seconds and must be explicitly assumed, both in presentation and content, by the candidates; c) the distribution of electoral publicity spots must ensure that all candidates have equal conditions of access; d) publicity spots by some candidates cannot be inserted in the intervals of promotional shows allocated to other candidates; e) the content of electoral publicity spots must comply with the conditions imposed by Article 3, paragraph (2). Article 6 (2) provisions that electoral publicity spots do not constitute audiovisual commercial communication and that their distribution is free of charge. Article 6 (3) establishes that during the election campaign, except for electoral publicity spots, the dissemination of any forms of audiovisual commercial or non-commercial communication which contains references to political contenders is forbidden.

Article 7 (2) stipulates: 48 hours before polling day, it is forbidden to submit opinion polls, television polls or polls with electoral content carried out in the street. Paragraph (3): on voting day, it is forbidden to present polls conducted at

the polls exit before voting ends.

Article 8 provisions that 24 hours before voting begins and until the polls are closed, it is forbidden to broadcast any messages or comments with electoral content, programmes, or electoral spots, as well as to invite or present electoral contenders in programmes, except for the situations provided for in Article 9.

Article 9 provides provisions on the right to reply and the right to rectification, which follow the general regime of these rights.

Decizia nr. 781 din 3 septembrie 2019 privind regulile de desfăşurare în audiovizual a campaniei electorale pentru alegerea Preşedintelui României

http://cna.ro/IMG/pdf/Decizie_nr._781_din_03.09.2019_Alegeri_PRES_2019_CNA_.pdf

Decision no. 781 of 3 September 2019 with regard to the rules of the audiovisual electoral campaign for the election of the President of Romania

TURKEY

[TR] Bianet blocked temporarily as result of mistake by Gendarmerie General Command

Léa Chochon
European Audiovisual Observatory

In response to a request from the Gendarmerie General Command on 16 July 2019, the 3rd Penal Court of Peace in Ankara issued a ruling that blocked access to 136 news sites and social media accounts in Turkey.

Order 2019/5538 was issued on the basis of Article 8/A of Act No. 5651 on the regulation of publications on the Internet, which allows judges to order the removal of, or block access to content in order to protect the right to life or the security of life and property, to protect national security and public order, to prevent a crime from being committed, or to protect public health.

The blocked sites included Bianet, an independent media company known for its articles covering the human rights situation and freedom of expression in Turkey. The blockage rendered more than 200 000 articles inaccessible, without Bianet having been officially informed either that it had been blocked or of the reasons behind this blockage. Bianet lawyer Meriç Eyüboğlu lodged an objection to the ruling, noting in particular that no justification had been given.

OSCE Representative on Freedom of the Media Harlem Désir also expressed his deep concern, calling on the Turkish authorities to review the ruling. He recalled that “unhindered access to online news sources is key to ensure citizens can have access to credible and trustworthy information with a variety of viewpoints”, and stressed that the ruling confirmed the need to reform both current Internet law and the procedures of the Courts of Peace in Turkey.

On 17 July 2019, the Gendarmerie General Command retracted in respect of the Bianet site, stating that the site had slipped onto the list of sites notified to the Court of Peace “by mistake”. The Court therefore re-established access to Bianet, but maintained the blockage of the other sites on the list.

Bianet and the OSCE welcomed the decision, but denounced the blockage of the other sites. Bianet lawyer Meriç Eyüboğlu said, “Withdrawal of this unfair and unfounded decision for Bianet does not of course eliminate the unlawfulness and the massive and unjust interference with freedom of expression, freedom of the press and the right to access information. This decision should be rescinded in its entirety” (that is, for all the sites on the list).

For information, according to an IFOD study, by the end of 2018, Turkey’s Courts of Peace had blocked a total of 245 825 domain names, including at least 150 000 URL addresses, under Act No. 5651.

Değişik Iş No 2019/5538 D.Iş, T.C. Anakara 3. Sulh Cez Hâkimligi

https://bianet.org/system/uploads/1/files/attachments/000/002/688/original/Ankara_3rd_Criminal_Judgeship_of_Peace_2019-5538_Misc..pdf?1565097945

Order No. 2019/5538 D.Is, 16 July 2019, 3rd Penal Court of Peace in Ankara

Court Decision to Block bianet Made 'by Mistake', 135 Addresses Still Banned, Istanbul, 07 August 2019, BIA News Desk, Bianet

http://bianet.org/english/freedom-of-expression/211459-court-decision-to-block-bianet-by-mistake-135-addresses-still-banned

An assesment report on blocked websites, news articles and social media content from Turkey, Yaman Akdeniz, Ozan Güven, iFOD (Freedom of Expression Association)

https://ifade.org.tr/reports/EngelliWeb_2018_Eng.pdf

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