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Publisher:

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

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

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

Executive Director: Susanne Nikoltchev

Maja Cappello, Editor • Sophie Valais, Amélie Lacourt, Justine Radel, Deputy Editors (European Audiovisual Observatory)

Documentation/Press Contact: Alison Hindhaugh

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

E-mail: alison.hindhaugh@coe.int

Proofreading of machine translations:

Sabine Bouajaja, European Audiovisual Observatory (co-ordination) • Aurélie Courtinat • Paul Green • Marco Polo Sarl • Nathalie Sturlèse • Erwin Rohwer • Sonja Schmidt • Ulrike Welsch

Proofreading of original texts:

Sabine Bouajaja, European Audiovisual Observatory (co-ordination) • Sophie Valais and Amélie Lacourt • Linda Byrne • David Windsor • Aurélie Courtinat • Barbara Grokenberger

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EDITORIAL

Storks are back *en masse* in Strasbourg, announcing longer and sunnier days. Or are they?

As the public's trust in media remains an important challenge in today's media ecosystem, taking the information one hears with a healthy dose of constructive skepticism is key. You can trust our reporting on the storks though, we can see the nests directly from the Villa.

In Germany, the state media authorities published the results of their 2025 Info-Monitor, detailing users' various consumption habits and trust (or lack thereof, in some cases) in the media.

Journalists, their work and their working conditions were also at the centre of several recent developments. In the Netherlands, a court ruled in favor of public broadcaster coverage of Polish migrant workers' treatment. Still in the Netherlands, a bill amending the Dutch Criminal Code and proposing to criminalise the sharing of photos and videos of certain victims was recently published. While welcomed by victim support groups, the Bill also raised concerns among journalists to see this being drawn into the criminal domain. Crossing the border, Belgian journalists and whistleblowers are seeing their case advance, with the submission before the Federal Parliament of a bill transposing the Anti-SLAPP Directive.

In DSA-related developments, the Netherlands Authority for Consumers and Markets was officially designated as the Dutch Digital Services Coordinator and Italy adopted a new regulation on complaints against providers of intermediary services for infringement of the DSA.

In France, a decree named 17 VSPs established in other EU member states which will have three months to implement an age verification system ensuring their users are of legal age. The national media regulator, Arcom, will be able to fine them and/or block their services in France should they fail to comply.

Enjoy the read!

Maja Cappello, Editor

European Audiovisual Observatory

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INTERNATIONAL

COUNCIL OF EUROPE

ROMANIA

European Court of Human Rights: civil liability for publication and hosting of comments on Facebook violates freedom of expression

Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam

In a Chamber judgment of 7 January 2025, the European Court of Human Rights (Fourth Section) held, unanimously, that Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR) had been violated in the case of *Alexandru Pătraşcu v. Romania*. The Romanian courts had found Mr Pătraşcu liable under civil law for publishing and hosting a number of unlawful comments on his Facebook page. The impugned comments, which were posted by the applicant himself and by other users, were of a disparaging nature towards particular individuals and were held by the national courts to have exceeded the limits of freedom of expression.

The applicant was an ardent fan of opera and classical music and a well-known commentator on these topics. He regularly provided commentary on these topics on his Facebook page, in his blog and in magazine articles. In the course of 2016, he provided extensive commentary on a scandal involving the National Opera in Bucharest that had generated divisive opinions and heated debate. Some 400 Romanian members of staff at the National Opera participated in demonstrations and signed a petition, calling for the departure of other members of staff who were either foreigners or who had previously worked abroad. The conflict escalated, with repercussions for managerial practices and for concert performances. It also led to the ending of collaboration with several (renowned) artists and the resignation of the Minister of Culture. Some of Mr Pătraşcu's coverage of these events on his Facebook page and in his blog concerned individuals involved in the protests, such as the *chef d'orchestre*, T.S., and the soprano, I.I. Some of the reactions to that coverage also focused on the same individuals.

T.S. and I.I. took legal action against Mr Pătraşcu to secure: the removal of the various comments they claimed were denigrating, defamatory or insulting towards them; an order to refrain from publishing such comments in the future; and compensation for reputational damage. The court of first instance found that the publications amounted to an unlawful act, triggering civil liability in tort. It ordered Mr Pătraşcu to pay each of the claimants compensation for non-pecuniary

damage. It did not attach any importance to the distinction between authorship and hosting of the impugned comments, finding that hosting the comments constituted the unlawful act. Mr Pătraşcu appealed the decision and the appellate court partly upheld his appeal. It focused on the comments posted on the applicant's page that the lower court had held to have gone beyond the protected limits of freedom of expression. It narrowed those 41 comments down to 22, which it held were not protected under freedom of expression. Four of those comments were written by the applicant and they contained references to, *inter alia*, primates and xenophobes. The appellate court found these comments to be unlawful and it also found the failure of the applicant to act in respect of the other comments posted by third parties to be unlawful. An appeal on points of law by both parties to the Court of Cassation was dismissed.

In its consideration of the case, the European Court of Human Rights recalled a number of its key principles: the right to freedom of expression under Article 10 ECHR covers freedom of artistic expression (*Müller and Others v. Switzerland* (1988)); the right to freedom of expression must be balanced with the right to respect for private life under Article 8 ECHR and a number of factors should be taken into consideration in such balancing. These factors include the contribution to a debate of general interest; the fame and prior conduct of the person concerned; the content, form and consequences of the publication; the method of obtaining the information; and the nature and severity of the sanction imposed (*Von Hannover v. Germany (No. 2)* [GC]; *Axel Springer AG v. Germany* [GC] IRIS 2012-3:1/1). The Court then observed its principles and approach to the liability of operators of online platforms for unlawful content posted by third parties, as developed in its Grand Chamber judgment in *Delfi AS v. Estonia* [GC] (IRIS 2015-7:1/1) and in subsequent case law, such as *MTE and Index.hu Zrt. v. Hungary* (IRIS 2016-3:1/2) and, especially, *Sanchez v. France* [GC] (IRIS 2023-6:1/15). That case involved the criminal liability of a politician for the hateful and discriminatory comments posted by third parties on his Facebook wall. His liability derived from his failure to remove the comments despite having knowledge of them.

The Court examined the two main prongs of the case separately: first, the applicant's civil liability for the comments he made himself, and then his liability for the comments made by third parties on his Facebook page. In respect of the applicant's own comments, the Court noted that the domestic courts did not initially distinguish the applicant's comments from those of the third parties. It further noted that the Romanian Court of Appeal considered the applicant's comments collectively and not individually and failed to conduct any "significant analysis" of the factual context, content and style of the impugned comments. The Strasbourg Court therefore concluded that the national courts had not conducted a proper balancing of the issues at play in order to establish that the applicant's conviction under civil law for his own comments corresponded to a pressing social need and was proportionate to the aim of protecting the rights of others. The Court accordingly found that the interference with the applicant's right to freedom of expression was not necessary in a democratic society.

The Court's examination of the applicant's liability for the third-party comments on his Facebook page turned mainly on the quality of law of the two provisions in

the Romanian Civil Code (Articles 1349 and 1357) relied on by the national courts in finding and upholding the applicant's conviction. Neither article gives any indication that the applicant, in hosting his Facebook page, had an obligation to monitor third-party posts on his page. Nor do they specify the circumstances in which the applicant would be expected to conduct such monitoring. The general wording of the articles does not refer to the responsibility of various actors in the audiovisual or electronic domains. The Court acknowledged that laws inevitably contain terms that may be somewhat vague and require (judicial) interpretation, but it pointed to the role of national courts to clarify the meaning of such provisions. In the present case, the national courts had applied different reasoning in finding and upholding the applicant's liability for the comments by third parties. The Court held that the lack of clarity about the legislative provisions, coupled with the interpretative divergence by the national courts, basically meant that the relevant law was not sufficiently clear and precise for the applicant to be aware of his duties and responsibilities or to be able to regulate his conduct accordingly. This meant that his right to freedom of expression was inadequately protected against interference by the authorities. The Court concluded that the criterion of being "prescribed by law" was not met and there was thus a violation of the applicant's right to freedom of expression.

Alexandru Pătraşcu v. Romania, No. 1847/21

NATIONAL

BELGIUM

[BE] Bill for the transposition of the EU Anti-SLAPP Directive

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

On 26 February 2025 the Belgian Federal Parliament (Chamber of Representatives, Commission of Justice) started the process of introducing a bill in order to transpose the Anti-SLAPP Directive 2024/1069 of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (IRIS 2024-3:1/5). The bill was submitted by the Green Party and Ecolo on 18 February 2025, and is currently under discussion in the Commission of Justice, before being referred to a plenary session in parliament for the final vote. The EU Anti-SLAPP Directive (the Directive) needs to be transposed into national law by 7 May 2026. The bill is not only designed to transpose the EU Directive but also integrates some of the provisions of the Anti-SLAPP Recommendations of the European Commission of 27 April 2022 (IRIS 2022-5:1/6) and of the Committee of Ministers of the Council of Europe of 5 April 2024 (IRIS 2023-4:1/7). The bill in parliament is based on a proposal of a model law elaborated by a group of experts of the Belgian anti-SLAPP working group that has been monitoring developments related to SLAPPs in Europe and in Belgium since 2023.

According to the explanatory memorandum, the bill aims to combat a worrying phenomenon since the purpose of the "slapper" is to stifle public debate, through the abuse of the judiciary. It also refers to the obligation that all member states of the Council of Europe have under Article 10 of the European Convention on Human Rights (ECHR) “to ensure a safe and favourable environment for everyone to participate in the public debate without fear". For claimants in SLAPP-proceedings it is not about winning the lawsuit, but mainly about deterring their critics with the prospect of high legal costs, protracted legal proceedings or the risk of being ordered to pay hefty damages.

The proposal aims first and foremost to help ensure the timely transposition of the Directive while at the same time following up on the recommendations of the Council of Europe and the European Commission, which have a broader scope of application than the Directive. Indeed, the Directive aims at a minimum harmonisation within the European Union (Directive, recital 21) and leaves room for more favourable provisions to protect persons who engage in public participation from manifestly unfounded claims or abusive court proceedings, including national provisions providing for more effective procedural safeguards

regarding the right to freedom of expression and information, as guaranteed by Article 10 ECHR (Directive, Article 3(1)). Therefore the bill opts for a broader approach than the strict transposition of the Directive into Belgian law at two levels: not only does it seek to apply to SLAPPs of a cross-border nature, but also to SLAPPs where both claimant and defendant are domiciled in Belgium, without any cross-border impact. In addition to civil proceedings, the bill also seeks to apply to SLAPPs through criminal proceedings.

Otherwise, the bill is very close to the provisions of the Directive. It clarifies when there is "public participation" and what the criteria or indicators are for qualifying a lawsuit as abusive court proceedings or as a manifestly unfounded claim against forms of public participation. Through a series of additional provisions in the Judicial Code and in the Code of Criminal Procedure, the main procedural guarantees of the Anti-SLAPP Directive are transposed into Belgian law. These include, in particular, the possibility for the court to dismiss a manifestly unfounded claim at an early stage of the proceedings. In line with the Directive, the bill allows associations, organisations, trade unions and other entities to act as amici curiae, in support of the defendant. It also opts for a specific sanction in the case of a SLAPP, as the Directive requires effective, proportionate and dissuasive sanctions. Moreover, the plaintiff can also be ordered, on request or even ex officio, to pay damages to the defendant. The damages can include all attributable types of procedural costs, including the full costs incurred by the defendant for legal representation, unless such costs are excessive.

The bill also introduces, via a new section in the Code of Private International Law, the possibility to refuse recognition and enforcement of judgments given in third countries that qualify as SLAPPs. A new article in the same code gives Belgian courts jurisdiction to hear claims for compensation for damage and costs suffered by a natural or legal person domiciled or established in Belgium as a result of a SLAPP claim brought before a court in a country outside the European Union by a claimant residing or established outside the European Union. The Federal Institute for the Protection and Promotion of Human Rights (FIRM-IFDH) designated by the Federal Department of Justice as the central focal point in the fight against SLAPPs in Belgium, is assigned the task of ensuring access to information, support and transparency mentioned in Article 19(1) of the Directive. This concerns, in particular, information on available procedural guarantees and legal remedies and on existing support measures such as legal aid and financial and psychological support, as well as the organisation of and participation in awareness-raising campaigns. Finally, the government is charged with providing support for initiatives aimed at raising awareness and organising information campaigns on SLAPPs within one year of the entry into force of the Anti-SLAPP Directive.

Proposal on measures to protect persons participating in public debate against manifestly unfounded legal claims or abusive legal proceedings ("strategic lawsuits against public participation" – SLAPP), 18 February 2025, DOC 56 0728/001

https://www.slapp.be/en/proposals

GERMANY

[DE] Administrative courts rule on access to public broadcasters' election debates

Christina Etteldorf
Institute of European Media Law

On 5 February 2025, the *Verwaltungsgericht Köln* (Cologne Administrative Court) ruled in summary proceedings that the leading candidate of the party *Bündnis Sahra Wagenknecht* (Sahra Wagenknecht Alliance – BSW) for the 2025 Bundestag election did not have to be invited to appear on the pre-election debate programme *Wahlarena 2025 zur Bundestagswahl* broadcast by the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland* (ARD). On the same day, the *Verwaltungsgerichtshof Baden-Württemberg* (Baden-Württemberg Administrative Court) ruled differently in relation to the same party's participation in the programmes *Wahlarena Baden-Württemberg* and *Wahlarena Rheinland-Pfalz* broadcast by *Südwestrundfunk* (SWR). Although both decisions were based on the same legal principles, in particular the principle of equal opportunities for political parties, the courts applied different weightings, primarily because the programme concepts were not the same.

In the run-up to the Bundestag elections held on 23 February 2025, the leading candidates of political parties were invited to present their manifestos and discuss them with each other in a large number of different television programme formats. As the political landscape in Germany is currently more diverse than ever before, with many parties already represented in the Bundestag or predicted to win seats, the leading candidates of some parties could not be invited to take part in such programmes, even though they had a chance of being elected. Parties excluded from the public service broadcasters' high-profile programmes in particular argued that this limited their election chances and turned to the courts in an attempt to be allowed to participate.

In the two cases at hand, the courts issued different decisions. Both adopted the same starting point, i.e. since the programmes had editorially designed formats and were protected under broadcasting freedom (Article 5(1) sentence 2 of the German Basic Law), the broadcasters had discretionary powers when deciding who should take part. However, broadcasting freedom was restricted, particularly during election campaigns, by the fundamental rights of political parties, especially the principle of equal opportunities. A claim against public broadcasters for the right to participate in an election programme could be justified if the programme in question carried high journalistic weight and if a party's chances of election success suffered lasting damage as the result of unjustified differentiation between parties. The line-up of guests must then be based on the principle of graduated equality of opportunity, where parties were represented "according to their importance". Both courts also assumed that, in order to

determine a party's political importance, an overall view of the results of election polls conducted in recent months should also be taken into account, especially if there had been significant shifts in the political landscape. This was particularly relevant for the BSW because, based on the current balance of power in the Bundestag and the results of the previous election in 2021, it would not have had to be included at all. Even though it had only been founded in 2024 as a split from from the party *Die Linke* (The Left, a party represented in the Bundestag), the BSW was already registering 4 to 6% in the polls.

However, the main reason why the courts reached different verdicts was the different broadcasting concepts of the respective election programmes. In the case heard by the Cologne Administrative Court, the leading candidates of the four strongest parties in the Bundestag, each of which was expected to win well over 10% of the votes according to the latest polls, had been invited to take part. The court ruled that the BSW was not currently of comparable importance to the invited parties. According to the polls, the invited parties' current ratings gave their respective leaders a reasonable chance of becoming chancellor in the future, which was the basis for the programme concept. The BSW, together with two other parties with a similar standing in the polls, i.e. *Die Linke* and the *Freie Demokratische Partei* (Free Democratic Party – FDP), were primarily battling just to win any seat in the Bundestag. Since the BSW had been given sufficient airtime in numerous other editorial formats as part of ARD's overall election coverage concept, it had no automatic right to participate in this particular programme. The *Bundesverfassungsgericht* (Federal Constitutional Court) dismissed an appeal against this decision on 15 February 2025.

Meanwhile, in the case before the Baden-Württemberg Administrative Court, a representative of the FDP had been invited to take part in the two election programmes concerned alongside those of the four strongest parties. Although the FDP had achieved 11.4% of the vote in the previous Bundestag election, it was almost on a par with the BSW in the latest polls, with 4 to 6% of the vote. The court thought these projected figures, which had been confirmed by the 2024 European election results (5.2% for the FDP and 6.2% for the BSW), were more relevant than the current distribution of Bundestag seats. This unequal treatment was therefore considered a breach of equal opportunities. Since there was a risk that the BSW's chances of election success would suffer lasting damage, the court ordered the broadcaster to allow the party to participate.

Urteil des VGH Baden-Württemberg (ECLI:DE:VGHBW:2025:0205.1S164.25.00)

https://www.landesrecht-bw.de/bsbw/document/NJRE001599818

Judgement of the Baden-Württemberg Administrative Court (ECLI:DE:VGHBW:2025:0205.1S164.25.00)

https://www.landesrecht-bw.de/bsbw/document/NJRE001599818

Urteil des VG Köln (ECLI:DE:VGK:2025:0205.6L81.25.00)Urteil des VG Köln (ECLI:DE:VGK:2025:0205.6L81.25.00)

https://nrwe.justiz.nrw.de/ovgs/vg_koeln/j2025/6_L_81_25_Beschluss_20250205.html

Judgement of the Cologne Administrative Court (ECLI:DE:VGK:2025:0205.6L81.25.00)

https://nrwe.justiz.nrw.de/ovgs/vg_koeln/j2025/6_L_81_25_Beschluss_20250205.html

Beschluss des Bundesverfassungsgerichts (2 BvR 230/25)

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2025/02/rk20250215_2bvr23025.html?nn=68080

Decision of the Federal Constitutional Court (2 BvR 230/25)

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2025/02/rk20250215_2bvr23025.html?nn=68080

[DE] Statute on the regulation of media intermediaries comes into force

Christina Etteldorf
Institute of European Media Law

The statute on the regulation of media intermediaries (MI statute), which the state media authorities had initially failed to adopt unanimously due to a drafting error, came into force in Germany on 1 January 2025. The statute regulates in detail the provisions and procedures laid down in Articles 91 to 95 of the *Medienstaatsvertrag* (state media treaty – MStV), which govern media intermediaries. In particular, it covers the transparency requirements and rules on discrimination that apply to media intermediaries in Germany.

The MStV defines a media intermediary as any telemedia (essentially online media, excluding broadcasting or telecommunication) that also aggregates, selects and presents third-party journalistic/editorial content in a way that is accessible to the general public without combining it into an overall offering. This therefore includes search engines, social networks and video-sharing platforms. The MStV contains special rules for the providers of such services. In particular, they must appoint a service representative based in Germany (Article 92) and ensure that information about the criteria for access to as well as the aggregation, selection and presentation of content (including the functionality of the algorithms used) is transparent (i.e. easy to find, directly accessible and permanently available) (Article 93). They may not discriminate against journalistic/editorial content on whose perceptibility they have a particularly high level of influence (Article 94). The MI statute, which was developed by the state media authorities on the basis of their statutory powers, explains these obligations in detail.

Firstly, the statute points out that its provisions also apply to so-called integrated media intermediaries, i.e. any integration of an intermediary function into third-party offerings that enables users of such offerings to use the intermediary function. With regard to the transparency obligation, it also states that information must be provided in German and be “easy to find” for the average user in a typical usage situation. This requirement is normally met if the information clearly stands out from other content and is directly linked to essential input or navigation processes. Information is only “directly accessible” in the legal sense if it can be found by the user without significant intermediate steps. This is not the case if more than two clicks (i.e. the use of more than two web links) and/or prior registration or log-in are required to find it. The statute also contains significant provisions regarding the transparency of the criteria themselves. Transparency of access criteria, for example, means that the media intermediary makes transparent all (technical, economic, provider-related, user-related and content-related) conditions that determine access. This includes the use of automatic filter systems and information on whether payments have any influence on access or visibility (e.g. sponsored content). With regard to (algorithmic) content prioritisation, intermediaries should, among other things, provide information about their optimisation goals, the impact of payments or

other considerations and personalisation, as well as individual process steps.

As far as preventing discrimination is concerned, the MI statute begins by defining what constitutes a media intermediary's "high level of influence" on the perceptibility of journalistic content. While the opinion-forming process should be central to this, the media intermediary's position in the relevant marketplaces and an overall view of usage (usage reach, user numbers, duration of use and user activity) may also be taken into account. Prohibited discrimination is deemed to exist in particular if the media intermediary deviates from its usual prioritisation criteria (which must be made transparent in accordance with Article 93) with regard to certain providers or applies other criteria for no objective reason. Objective reasons for different treatment may include legal obligations, technical aspects of presentation to the user or requirements designed to protect the integrity of the service.

The MI statute also explains the procedures for monitoring and enforcing the rules for intermediaries, as well as investigative powers and information obligations.

Satzung zur Regulierung von Medienintermediären

https://www.die-medienanstalten.de/service/rechtsgrundlagen/satzung-zur-regulierung-von-medienintermediaeren/

Statute on the regulation of media intermediaries

https://www.die-medienanstalten.de/service/rechtsgrundlagen/satzung-zur-regulierung-von-medienintermediaeren/

[DE] Media authorities' Info-Monitor reports on information trends and media trust in Germany

Christina Etteldorf
Institute of European Media Law

On 6 February 2025, the German state media authorities published the results of their Info-Monitor 2025. This report examines where and how the German population obtains information about current affairs, analyses changes in consumer behaviour, and investigates the level of trust among the population and the trustworthiness of certain information sources in relation to their political standpoint. The results of the study, which is based on surveys of the 14+ age group, show that information habits vary depending on age, level of trust in established media, region and political preferences.

The Info-Monitor replaces the representative survey previously conducted by the media authorities since 2009, known as the *Mediengewichtungsstudie* (media weighting study), and develops it further using a cross-media survey method.

In terms of general information behaviour, the study concludes that there is a high level of public interest in news. More than 90% of those surveyed (around 3,500 people in total) stated that they were interested in current affairs and obtained information from the media at least once a week. Many different information sources are used, with a clear shift towards digital media in particular. Public-service TV and radio stations, search engines and local or regional daily newspapers are the main sources. The under-30s obtain information primarily via the news bulletins of public service broadcasters and social media, while those under 65 mainly use the traditional genres of television, daily newspapers and radio. However, with the exception of public-service TV and daily newspapers, “incidental” media use outweighs deliberate access to information. Unintentional searches for information are particularly common in social media, especially among younger age groups. Older generations, on the other hand, tend to obtain information online via digital services such as online portals, news aggregators and messengers.

According to the survey, researchers play the most important role in the opinion-forming process, followed by journalist-led editorial offices, freelance journalists and family and friends, while politicians and political parties are a considerable distance behind. However, the study suggests that political standpoint also plays a role: almost all information sources – especially journalist-led editorial offices – are significantly less important for people who support a party with right-wing views, i.e. the *Alternative für Deutschland* (Alternative for Germany – AfD), than for those who lean towards the *Christlich Demokratische Union* (Christian Democratic Union – CDU), *Sozialdemokratische Partei Deutschlands* (Social Democratic Party of Germany – SPD) or *Bündnis 90/Die Grüne* (Alliance 90/Green Party). Just over half of respondents feel that their information needs are adequately met by the established media, while one in three think that topics

relevant to them are insufficiently covered.

A quarter of respondents sometimes deliberately avoid the news, mostly due to the large amount of negative content, but also partly due to a lack of trust in the content or the media that provide it. Trust in the media was also one of the focal points of the Info Monitor. The majority of those surveyed (60%) trust established media such as broadcasters and daily newspapers and describe them as fast, comprehensible, factual, trustworthy and realistic. Trust in the media is particularly strong among the under-30s and people with a high level of formal education. In contrast, around a third see the established media as economically/politically controlled, while one in four consider them sensationalist and divisive. The study identifies various patterns in terms of the relationship between the media and respondents' political attitudes, satisfaction with democracy and views on different information sources. On the basis of these and other evaluations of trust in the media, it categorises people as convinced (22%), critical (45%), sceptical (26%) or dismissive (7%). Those in the "convinced" category trust established media strongly and rate them almost exclusively positively. Those who are "critical" value established media but question them in a more differentiated way, the "sceptical" trust them less and are increasingly turning to alternative sources of information, while the "dismissive" rate established media almost exclusively negatively and have little trust in them. "Convinced" and critical" respondents are also more satisfied with democracy, while those in the "sceptical" and "dismissive" categories are significantly more likely to hold sceptical or negative attitudes towards the political system.

Info-Monitor 2025

https://faktenimpulse.de/wp-content/uploads/2025/01/Info-Monitor_2025.pdf

Info-Monitor 2025

DENMARK

[DK] New Bill for appointment of members to the board of directors of the Danish Broadcasting Corporation

Terese Foged
Legal expert

On 27 February, a bill on a new model for appointing members to the Danish Broadcasting Corporation, DR board of directors, was put forward in the Danish parliament. The first treatment in parliament is planned for 20 March.

The purpose of the bill is to implement the political agreement on a new appointment model for DR's board, which was reached by a broad majority in the Danish parliament in April 2024. The political agreement is based on recommendations by the Committee on DR's Board of Directors from January 2024.

The bill subsequently comes to a consultation process ending in January 2025, with positive responses.

In a Ministry of Culture, press release on new requirements for board members of DR, the Minister of Culture stated that it is important to ensure that "DR has a board that has the competencies needed to lead and develop all of Denmark's public service institution in a challenging digital media reality. We are tightening the requirements for the professional and managerial competencies needed to be appointed to the board."

According to the bill, the new appointment model will ensure that DR has a professionally strong, independent and popularly supported board with the right competencies to lead DR.

The main points of the future appointment model for DR's board are the following: an appointment body appoints six members; the Minister of Culture appoints three members, including the chairman of the board; and DR's employees appoint two members.

The new competence requirements that will form the basis for the appointments to the board shall:

- take into account the professional and managerial competencies that are necessary to run DR. At the same time, they reflect the fact that DR, as Denmark's overall public service media company, plays a unique role and has a special responsibility to reach the entire population of Denmark with relevant media and cultural content.

- fall into three categories: 'Media, technology and user habits', 'popular anchoring, culture and public service' and 'management'.

- set up stricter requirements for the chairman of the board, among other things: top management experience in larger organisations.

The appointment body will work so that the six largest parties in Parliament each elect one member to the appointment body, which jointly appoint six members to DR's board. The appointment body must make its appointments based on statutory competencies and is set up for a term of three years.

As to the three members, including the chairman of the board, appointed by the Minister of Culture, these appointments must also be based on statutory competencies. The Minister shall appoint the vice-chairman of the board from among the six members appointed by the appointment body.

Finally, the term of appointment to DR’s board is reduced from four to three years. The existing rule that re-appointment can only take place once is repealed, and a new rule is introduced under which board members can serve for a maximum of 12 years.

According to the bill, the new model for appointing board members will come into force in 2027.

It follows from the European Media Freedom Act, which will fully apply in August 2025, that EU member states must ensure that the top management of public service media is independent, that the appointment process is transparent and that pre-determined criteria are used as a basis for the appointment.

Bill on changes to the Radio and Television Broadcasting Act (amendment to the appointment model for the board of DR)

Anbefalinger vedr. udpegning og sammensætning af DR’s bestyrelse, af Udvalget vedr. DR’s bestyrelse

https://kum.dk/fileadmin/_kum/1_Nyheder_og_presse/2024/Rapport-Anbefalinger-vedr-DRs-bestyrelse-TG.pdf

Recommendations from the Committee on DR's board of directors

Høringssvar og høringsnotat

https://www.ft.dk/samling/20241/lovforslag/L161/bilag/1/2983722.pdf

Consultation responses and consultation note

FRANCE

[FR] Release window agreement extended as Disney+ and Canal+ pledge their support for French cinema

Amélie Blocman
Légipresse

The decree issued by the Ministry of Culture publishing the release window agreement of 6 February 2025 extends for three years the previous agreement signed in 2022, which has now expired. Although the parties wished to maintain the general principles of the previous agreement, the position of individual broadcasters may change depending on their commitment to film funding.

The 2022 agreement, which has now been renewed, shortened the distribution time for films following their release in cinemas to four months for sales and rentals (DVD, VOD, Blu-ray), six months for Canal+ and OCS (compared with eight months previously), 15 months for Netflix, a paid video-on-demand (VOD) service, 17 months for other paid VOD services such as Disney+ or Amazon Prime Video, 22 months for free-to-air channels (with exclusivity until the 36th month) and 36 months for free-to-air VOD services.

At the end of January, as part of a renegotiation process, Disney+ announced a three-year agreement under which, in return for increased investment in French cinema, it could broadcast films nine months after their release, compared with 17 months previously.

Meanwhile, on 3 March, the Canal+ group announced that it had signed a new agreement with the French film industry organisations (BLIC, BLOC and ARP) concerning CANAL+ and CINE+ OCS. The agreement secures the group’s unique and privileged position in relation to release windows, enabling it to broadcast films six months after their release in cinemas. It will also enable the group to show more films in linear format and to extend the period of non-linear broadcasting. In terms of investment, the Canal+ group committed a minimum of EUR 480 million over the three years of the agreement: EUR 150 million in 2025, EUR 160 million in 2026 and EUR 170 million in 2027. Although these amounts are lower than under the previous agreement, under which Canal+ invested around EUR 190 million a year, the group is nonetheless strengthening its position as the leading partner in film creation in France. The group also announced that it was stepping up its commitment to so-called “diversity films” (films with a budget of less than EUR 4 million). This agreement takes effect retroactively from 1 January 2025 for a period of three years, i.e. until 31 December 2027, and is renewable by tacit agreement.

Arrêté du 13 février 2025 portant publication de l'accord portant chronologie des médias du 6 février 2025, JO du 19 février 2025.

https://www.legifrance.gouv.fr/download/pdf?id=x1QAQbmpeNTf08feK5me670b44nCT_x74HgoJW7H6dA=

Decree of 13 February 2025 publishing the release window agreement of 6 February 2025, OJ of 19 February 2025.

[FR] Seventeen pornographic websites ordered to prevent access by minors

Amélie Blocman
Légipresse

Amended by the *Loi visant à sécuriser et réguler l'espace numérique* (Law aiming to secure and regulate the digital space) of 21 May 2024, Articles 10 *et seq*. of the *Loi pour la confiance dans l'économie numérique* (Law on confidence in the digital economy) gave the *Autorité de régulation de la communication audiovisuelle et numérique* (French audiovisual regulator – ARCOM) the power to impose financial penalties against and block or delist pornographic websites that remain accessible to minors in violation of Article 227-24 of the French Criminal Code, whether they are established in France, in the European Union (if designated by ministerial decree) or outside the EU.

The decree of 26 February 2025, published in the French official gazette on 6 March, named 17 video-sharing platforms established in other EU member states (including Pornhub, Youporn, XHamster, etc., described by the French Ministry of Culture as “the most popular in France”). These platforms now have three months to implement the law, which requires them to implement an age verification system ensuring their users are of legal age. If they fail to comply, ARCOM will be able to fine them and/or block their services in France.

On 9 October 2024, after receiving the opinion of the *Commission nationale de l'informatique et des libertés* (the French data protection authority – CNIL), ARCOM adopted technical guidelines requiring each platform to offer at least one “double anonymity” age verification system that enables an intermediary (e.g. bank, telephone operator) to verify a user’s age without the pornographic site knowing the user’s identity and without the intermediary knowing that its customer is visiting a pornographic site.

On 6 March 2025, ARCOM announced that none of the six most popular platforms it had inspected, whether established in France or outside the EU, had met their obligation to implement an age verification system. In addition, one of them had not made the identity and address of its provider available, contrary to the law. ARCOM therefore asked several internet service providers, domain name resolution system providers and search engines to block or delist this platform, with the aim of preventing access to it.

As required by law, ARCOM sent observation letters to the other five platform providers as a first step towards having their sites blocked if they continued to break the law.

According to ARCOM, these actions “reaffirm its commitment to improving the protection of minors on the internet in general, and against online pornography in particular. It is determined to pursue this approach at European Union level within

the framework of the Digital Services Act and, more particularly, the future European guidelines on the protection of minors online".

Arrêté du 26 février 2025 désignant les services de communication au public en ligne et les services de plateforme de partage de vidéos établis dans un autre État membre de l'Union européenne soumis aux articles 10 et 10-1 de la loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique, JORF du 6 mars 2025 et Communiqué de l'Arcom du 6 mars 2025

https://www.arcom.fr/presse/pornographie-en-ligne-de-nouvelles-etapes-franchies-pour-la-protection-des-mineurs

Decree of 26 February 2025 designating the online public communication and video-sharing platform services established in another European Union member state subject to Articles 10 and 10-1 of Law No. 2004-575 of 21 June 2004 on confidence in the digital economy, French official gazette of 6 March 2025 and ARCOM press release of 6 March 2025

https://www.arcom.fr/presse/pornographie-en-ligne-de-nouvelles-etapes-franchies-pour-la-protection-des-mineurs

GEORGIA

[GE] PARLIAMENT REVIEWS STRICTER RULES ON BROADCASTING AND FOREIGN AGENTS

Andrei Richter
Comenius University (Bratislava)

On 18 March, the Georgian Parliament adopted, in the second reading, a law on the registration of foreign agents, which, according to the Georgian authorities, would be a literal translation into Georgian of the US FARA (Foreign Agents Registration Act). The new law will complement the Law of Georgia "On transparency of foreign influence", which entered into force in 2024 (for more information on the Law of Georgia "On transparency of foreign influence", see: IRIS 2023-4:1/30, IRIS 2024-5:1/16, and IRIS 2024-6:1/13).

While the 2024 law operates with the notion of an “organisation pursuing the interests of a foreign power”, the 2025 law uses the new term “agent of a foreign principal”. Unlike the former, the latter encompasses both legal entities and individuals. The draft law does not apply to news broadcasters, press outlets or associations that operate under Georgian jurisdiction (established and registered in Georgia) or to media outlets that seek or receive advertising, have subscribers or receive other types of income, if at least 80% of their owners, managers and leadership are citizens of Georgia.

The authorities argued that the aim of the draft law is the ineffectiveness of the law "On transparency of foreign influence", which they called a light version of FARA, and the wish to include individuals, and not just organisations, under the scope of foreign agents.

On the same day, new amendments to the 2004 Law on broadcasting were also adopted in the first reading. Some of them ban broadcasters from receiving direct or indirect funding from foreign entities with the exception of commercials (but not social advertising), teleshopping, sponsorship, or product placement. Foreign entities are also forbidden from funding the preparation or airing of the broadcasts in Georgia.

Another set of amendments amends Article 52 of the Law on broadcasting (“Due accuracy and the right of reply”), including requirements to take “all reasonable measures” to avoid spreading false or misleading information, to cite sources for all statistical data, and to identify sources of factual information, or clearly state that they are anonymous.

Additional rules are also provided on the fairness and impartiality of broadcasters and further on the protection of private life. For more information on past amendments to the Law on Broadcasting, see: IRIS 2005-7:1/24, IRIS 2011-10:1/22, IRIS 2013-8:1/23, and IRIS 2023-6:1/28.

უცხოური აგენტების რეგისტრაციის აქტი

https://info.parliament.ge/file/1/BillReviewContent/381087

Draft Law of Georgia on registration of foreign agents

https://info.parliament.ge/file/1/BillReviewContent/381087

Law of Georgia "On transparency of foreign influence", No 07-3/433/10, entered into force 3 June 2024

https://matsne.gov.ge/en/document/view/6171895?publication=0

Law of Georgia on broadcasting

https://matsne.gov.ge/en/document/view/32866?publication=70

‘მაუწყებლობის შესახებ“ საქართველოს კანონში ცვლილების შეტანის თაობაზე

Law of Georgia On Amendments to the Law of Georgia on Broadcasting

https://info.parliament.ge/file/1/BillReviewContent/381095

IRELAND

[IE] Artificial Intelligence Advisory Council provides recommendations to Irish Government for adoption of AI policy in Ireland

Lawrence Morris

The newly formed Artificial Intelligence (AI) Advisory Council, established on 17 January 2024 by the Minister of State with responsibility for Digital, was formed to provide independent expert advice and guidance to the Irish Government on AI policy.

On 21 February 2025, the AI Advisory Council published a six-point paper entitled “Ireland’s AI Advisory Council Recommendations – Helping to Shape Ireland’s AI Future”. The stated purpose of this paper was to provide recommendations to the Irish Government to accelerate AI adoption, encourage responsible innovation, and reinforce Ireland’s role in the global AI ecosystem.

In its first recommendations, the AI Advisory Council called on the Irish Government to directly invest in the development of a real-time publicly available "AI Observatory" in the context of the future of skills and work. The AI Observatory is intended to deliver data and insights on a wide range of AI metrics such as labour market dynamics, capital flows, skills development, quality of life enhancement, public attitudes, etc. The aim of this resource is to provide policy makers, educators and workers with a database to make better measurements and provide better insights into what is occurring, as well asto navigate the future.

The AI Advisory Council has subsequently identified that Ireland should leverage its strong research and development (R&D) culture as well as its pro-business environment to lead in applied AI. To achieve this, it provides that R&D commercialisation must be prioritised through a focused startup ecosystem, faster funding reviews and expedited rollout of a national AI testbed.

The third recommendation made by the advisory council relates to AI literacy and education in the Irish population. The advisory council suggests that the Irish Government should create coordinated guidelines between the different education levels in respect of the safe, ethical and responsible use of generative AI. It proposes that the Irish Government should then lead the development and implementation of AI literacy training for all educators across all education levels as part of professional development programmes. This should be complemented by the establishment of a system that ensures equitable access to generative AI tools for teachers and students and which remains private, secure and free. Finally, the advisory council recommends the promotion of a national conversation around AI in education between teachers, parents/guardians,

policymakers, technology companies, students and educational technology innovators.

The AI Advisory Council addresses, in its fourth point, AI sovereignty and infrastructure. It outlines the cultural and economic necessity for Ireland to develop its own indigenous AI capability. It suggests that the Irish Government should lead by example by fully integrating AI into its operations for streamlined public services in the hope that it will generate the beginning of "Irish AI" and will strengthen local innovation. However, the advisory council notes that AI is enabled by data and energy and it warns that expansion to date in relation to existing data centres has been halted by grid constraints and fossil fuel dependency. To address energy deficits, the advisory council proposes the establishment of an "AI Energy Council" to coordinate data and energy policy. It further emphasises the safeguarding of national data assets.

The fifth point considers recommendations relating to the use of Facial Recognition Technology (FRT) within law enforcement. For context, the Irish police force does not currently use FRT. The advisory council notes that given the high-risk nature of FRT and its impact on fundamental rights, public transparency, engagement and accountability will be crucial in building public trust. It advocates for a clear legal basis for FRT and proper legal parameters for how facial recognition databases will be compiled. It recommends the establishment of a bespoke procurement framework and promotes regular independent auditing as a safeguard. It further suggests that Irish law enforcement should test FRT in the real world before adopting it.

The final set of recommendations from the AI Advisory Council relates to Ireland's creative sector. It notes that AI offers both opportunities for growth but also significant challenges. The advisory council highlights the need to protect creators from challenges posed by AI. It suggests the Irish Government should reassess whether Ireland's copyright laws and licencing regimes are equipped against AI disruption.

The advisory council also notes that AI is an enabler for the creative sector. As such, it advises that AI can bring significant opportunities to the creative sector by enhancing artistic expression. It recommends that the Irish Government should be assisting the creative sector in adopting new technology and in so doing it would be adding another means of protecting the sector from AI disruption.

Importantly, the advisory council addresses AI misuse in the form of deepfakes and digital cloning which effectively are technologies that digitally clone the image, likeness and voice of individuals. It recommends that the Irish Government should consider the introduction of specific laws which would prohibit the creation of digital deepfakes without the consent of the individual.

The AI Advisory Council concludes its recommendations by suggesting that the Irish Government should explore policy initiatives aimed at protecting and promoting Irish and European Culture.

Ireland's AI Advisory Council Recommendations - Helping to Shape Ireland's AI Future

https://enterprise.gov.ie/en/publications/publication-files/ai-advisory-council-recommendations-helping-to-shape-irelands-ai-future.pdf

ITALY

[IT] AGCOM adopts new regulation on complaints against providers of intermediary services for infringement of the DSA

Ernesto Apa & Eugenio Foco
Portolano Cavallo

In a board meeting held on 22 January 2025, the Italian Communications Authority (Autorità per le Garanzie nelle Comunicazioni – AGCOM) approved a regulation laying down the procedural rules to handle complaints lodged under Article 53 of the Digital Services Act (DSA).

The regulation represents an additional regulatory act adopted by AGCOM in its role as Digital Services Coordinator (DSC) for Italy.

It should be noted that, under Article 53 of the DSA, recipients of the service and any body, organisation or association mandated to exercise the rights conferred therein on their behalf has the right to lodge a complaint before the DSC of the member state where the recipient of the service is located or established, alleging an infringement of the same DSA.

AGCOM, in its capacity as DSC for Italy, adopted the regulation to lay down the procedural rules that recipients of the service must follow to lodge a complaint under the abovementioned provision of the DSA. AGCOM has also provided a specific form that may be filled out to lodge the complaint.

If the complaint concerns a provider of intermediary services established in another EU member state, AGCOM will forward the complaint to the DSC of the place of establishment of the provider. In this instance, AGCOM will, nonetheless, acknowledge receipt of the complaint and communicate to the claimant any information on the status of the complaint made available by the DSC of the place of establishment. If the complaint concerns a provider of intermediary services established in Italy and the mandatory requirements are met, AGCOM will notify the provider of intermediary services that sanctioning proceedings have been initiated.

The complaint may be dismissed where it is deemed inadmissible due to a lack of essential information or appropriate grounds.

AGCOM Delibera n. 25/25/CONS "Regolamento di procedura per la gestione dei reclami ai sensi dell'articolo 53 del Regolamento sui Servizi Digitali (DSA)".

https://www.agcom.it/sites/default/files/media/allegato/2025/All.1_Regolamento_Delibera_25_25_CONS_per%20pubblicazione_0.pdf

AGCOM Resolution No. 25/25/CONS "Rules of procedure for handling complaints under Article 53 of the Digital Services Act".

[IT] Online Copyright Protection: AGCOM Launches a Public Consultation on New Anti-Piracy Rules

Francesco Di Giorgi
Autorità per le garanzie nelle comunicazioni (AGCOM)

On February 18, 2025, AGCOM (Italy's communication Authority) initiated a public consultation through Resolution No. 47/25/CONS, set to last for 30 days starting from March 4, 2025, regarding amendments to the regulation on online copyright protection, in force since 2014. (see IRIS 2021-8:1/28, 2020-7:1/26, 2019-2:1/17. 2017-10:1/25, 2017-5:1/ 26, 2023-8:1/11).

The initiative aims to strengthen copyright and related rights protection tools in response to recent national and European legislative developments. These include the Digital Services Act (Regulation 2022/2065 – "DSA"), the amendments introduced by Decree-Law No. 113/2024, converted into Law No. 143 of October 7, 2024 ("Decreto Omnibus"), as well as modifications to the Italian Anti-Piracy Law (Law No. 93 of July 14, 2023) and the Consolidated Law on Audiovisual Media Services (TUSMA).

The proposed amendments under consultation seek to expand the scope of "dynamic injunctions" to cover all rights holders of live-streamed content, first-run screenings of films and audiovisual works, entertainment programs, sports broadcasts, and other protected intellectual property.

This includes sporting events and events of social or significant public interest, as defined by Article 33, Paragraph 3, of Legislative Decree No. 208 of November 8, 2021, in line with the Anti-Piracy Law. These rights holders will be entitled to file complaints with AGCOM regarding copyright infringements on live-streamed content and to register with the Piracy Shield platform.

One of AGCOM’s key strengths has been its swift intervention process, ensuring more effective protection for copyright holders. Additionally, the proposed changes would allow AGCOM to restore access to previously blocked resources after a minimum of six months.

Regarding media services, the consultation text, implementing the new Article 32 of TUSMA, enhances copyright protection measures. Until now, AGCOM only had injunctive powers, meaning it could issue warnings to broadcasters to cease transmission of unauthorized works or, in the case of non-linear operators, to remove them from their catalogs. The proposed amendment introduces a monetary penalty, allowing AGCOM to impose fines of up to €258,228.

Delibera 47/25/CONS "Avvio di una consultazione pubblica sullo schema di delibera recante modifiche al regolamento in materia di tutela del

***diritto d'autore sulle reti di comunicazione elettronica e procedure attuative ai sensi del D.lgs. 9 aprile 2003, n. 70 di cui alla delibera n. 680/13/CONS*"**

https://www.agcom.it/provvedimenti/delibera-47-25-cons

Resolution 47/25/CONS 'Launch of a public consultation on the draft resolution containing amendments to the regulation on the protection of copyright on electronic communications networks and implementing procedures pursuant to Legislative Decree no. 70 of 9 April 2003, referred to in resolution no. 680/13/CONS'

NETHERLANDS

[NL] Bill criminalising the sharing of photos and videos of certain victims

Ronan Ó Fathaigh
Institute for Information Law (IViR)

On 11 March 2025, a notable bill was published, which would amend the Dutch Criminal Code, and criminalise the publication of images, videos or livestreams, of certain victims of accidents or crimes. The Explanatory Memorandum to the bill notes that such images of victims are often made public and distributed via social media, and that making public such images is a “serious and punishable violation of privacy”. Notably, the offence would carry a possible one-year prison sentence or fine.

Under the bill, a new Article 139h of the Criminal Code would be introduced, which would make it an offence to “intentionally” and unlawfully make public an image of “someone who urgently needs help”, or an image of a deceased person. Notably, the Explanatory Memorandum states that an image is understood to mean all forms of visual material, such as “photos, video material and live streaming images”. Crucially, Article 139i, paragraph 3, of the Dutch Criminal Code contains a ground for excluding criminal liability for persons who could have assumed in “good faith” that the “public interest required the publication of the images”. As such, the Explanatory Memorandum states that criminalisation does not prevent “journalists, whistleblowers and others from making images public in certain situations”.

Notably, a victim support group, *Slachtofferhulp Nederland*, welcomed the bill, stating that “people become victims three times: first of a crime, then because they are filmed and then because of the judgments that are directed at you on social media. Sharing images of abuse or accidents is 'a serious invasion of privacy' and can cause additional mental harm”. However, it should also be noted that the Dutch Association of Journalists (*Nederlandse Vereniging van Journalisten*) (NVJ) “fears a 'chilling effect' for journalists, when the making and publishing of photos of victims is drawn into the criminal domain”, and journalists “make such images when they report or want to use photos or videos of eyewitnesses, who shed light on a certain relevant issue”. The NVJ states that it will “enter into discussions with the members of parliament concerned to convey the concerns”.

Voorstel van wet van de leden Boswijk en Mutluer tot wijziging van het Wetboek van Strafrecht en het Wetboek van Strafrecht BES in verband met het strafbaar stellen van het openbaar maken van beeldmateriaal van slachtoffers, 11 maart 2025

https://d2vs36cx04qmpo.cloudfront.net/files/Tweede-Kamerfractie/Initiatiefwet-strafbaar-stellen-van-het-openbaar-maken-van-beeldmateriaal-van-slachtoffers.pdf

Bill by members Boswijk and Mutluer to amend the Criminal Code and the Criminal Code BES in connection with the criminalisation of the publication of images of victims, 11 March 2025

[NL] Dutch Media Authority intervenes making certain online sports broadcasts free without registration

Ronan Ó Fathaigh
Institute for Information Law (IViR)

On 20 January 2025, the Dutch Media Authority (*Commissariaat voor de Media*) announced that, following an investigation, a major Dutch broadcast provider would be making broadcasts of certain sports competitions more easily accessible to the general public, without the creation of specific accounts or the sharing of personal data. The investigation followed VodafoneZiggo acquiring the broadcasting rights to the Champions League and Europa League, which are part of the so-called “events list” under the Dutch Media Act (*Mediawet*). Events on the events list are of general social interest and must be available to at least 75% of Dutch households, without having to pay extra for it; the Media Act states that these events must be distributed via an “open television programme channel”. Notably, in 2023, the Dutch Media Authority published guidance on the distribution of events via an open television programme channel, giving providers the freedom to use different broadcasting techniques, including online broadcasts via a browser or an app.

Crucially, when VodafoneZiggo acquired the broadcasting rights to these football competitions, viewers who were not VodafoneZiggo customers could only watch these matches without extra costs if they created an account, which also required them to share their personal data with VodafoneZiggo; and with this account, they could watch the broadcasts via the app or browser. However, the Dutch Media Authority received reports and questions from viewers who experienced the creation of an account as a barrier. In addition, interest groups also expressed their concerns about accessibility for people with fewer digital skills, including many elderly people; the Media Authority was asked to take enforcement action against VodafoneZiggo.

Indeed, during discussions about this with VodafoneZiggo, the Media Authority had expressed its concerns about the accessibility of the broadcasting methods that VodafoneZiggo would offer to non-customers. After an investigation, the Media Authority informed VodafoneZiggo that the obligation to create an account in order to watch the match did not comply with the rules of the Media Act. The Media Authority stated that it “puts the viewer's interests first: as many people as possible should be able to watch the broadcast of the event free of charge and without further barriers”. In this regard, the Media Authority found the obligation to create an account and to register multiple personal data to be “too high a barrier”. Importantly, on 20 January 2025, VodafoneZiggo announced that the broadcast could now also be watched via an “open web link”, with viewers no longer needing to create an account for this.

Finally, the Media Authority stated that it will “continue to monitor whether VodafoneZiggo ensures that sufficient households can watch the broadcasts”.

Commissariaat voor de Media, "VodafoneZiggo maakt uitzendingen UEFA-competities makkelijker toegankelijk na gesprek met Commissariaat", 20 januari 2025

Dutch Media Authority, "VodafoneZiggo makes UEFA competition broadcasts more accessible after talks with the Commission", 20 January 2025

https://www.cvdm.nl/nieuws/vodafoneziggo-maakt-uitzendingen-uefa-competities-makkelijker-toegankelijk-na-gesprek-met-commissariaat/

[NL] The Netherlands Authority for Consumers and Markets is officially designated as the Dutch Digital Services Coordinator

Valentina Golunova
Maastricht University

On 4 February 2025, *Uitvoeringswet digitaledienstenverordening* – the Dutch act implementing the Digital Services Act (DSA) – entered into force. Under this legislation, the Netherlands Authority for Consumers and Markets (*Autoriteit Consument & Markt* – ACM) was officially designated as the Digital Services Coordinator (DSC) – a national supervisory authority responsible for the effective and consistent supervision and enforcement of the DSA. The ACM will exercise a wide range of investigative and enforcement powers in the Netherlands as well as participating in the European Board of Digital Services – an independent advisory group composed of all the national DSCs and chaired by the European Commission. Furthermore, the ACM will cooperate with the Commission, for example by assisting the officials and other accompanying persons authorised by the Commission in relation to inspections conducted in the territory of the Netherlands.

The Authority for Personal Data (*Autoriteit Persoonsgegevens* – AP) was designated as a competent authority alongside the ACM, as per Article 49 DSA. It will focus on the enforcement of the provisions of the DSA relating to privacy and data protection, including profiling, recommender system transparency, and the online protection of minors.

The implementing act also includes provisions on the cooperation and data exchange between the two national supervisory authorities. For instance, the AP will provide advice to the ACM on the question of whether an application for the status of "vetted researcher" as referred to in Article 40(8) DSA complies with the condition requiring the applicant to be able to protect personal data. The AP must also contribute to a single report covering the activities of all competent authorities that must be drawn up by the ACM.

The implementing act also introduced several amendments to national legislation, including the Copyright Act (*Auteursrecht*) and the Consumer Protection Enforcement Act (*Wet handhaving consumentenbescherming*), in order to bring it in line with the DSA.

In February 2024, the ACM was provisionally designated as the DSC by a decision of the Minister for Economic Affairs (see IRIS 2024-3:1/14). Although it was not afforded crucial enforcement powers, including the power to impose fines in the event of non-compliance, the ACM enabled users of intermediary services and other stakeholders to submit reports via a form available on its website. Since the DSA became fully applicable, the ACM has received almost 300 notifications, most of which concern account and content restrictions, the reporting and handling of illegal content, and general contract and accessibility issues. Some of these

reports will be forwarded to the DSC of the member states where the provider of intermediary services has their main establishment.

All member states were required to designate their DSCs by 17 February 2024. However, many member states failed to meet this deadline. As a result, the Commission started infringement proceedings against several member states (see IRIS 2024-8:1/23). Poland is the only member state that has not yet designated its DSC.

Act of 29 January 2025 on the implementation of Regulation (EU) 2022/2065 of the European Parliament and the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Act Implementing the Digital Services Act)

[NL] A Dutch court rules that the public broadcaster complied with journalistic standards when reporting on Polish migrant workers in the Netherlands

Valentina Golunova
Maastricht University

On 31 December 2024, the District Court of Central Netherlands ruled that the Dutch public broadcaster *Nederlandse Omroep Stichting* (NOS) did not act unlawfully by reporting on the treatment of Polish migrant workers by the employment agency IFC Work. The court determined, in particular, that NOS did not overstep the boundaries of media freedom as it fully abided by journalistic standards. The ruling became publicly available on 4 February 2025.

The case revolved around a programme titled "Poolse Europarlementariër waarschuwt Polen voor werken in Nederland" (*Polish MEP warns Poles about working in the Netherlands*) published by NOS in June 2022. This article detailed the story of a Polish couple who were recruited to work in the Netherlands. However, upon arriving in the county, the couple discovered that their salary was lower than promised and the housing conditions were unsatisfactory. When the couple got in touch with Polish MEP Robert Biedroń, he launched a public campaign warning Poles about the risks of signing up for low-skilled working opportunities in the Netherlands.

Prior to publishing the article, NOS contacted IFC Work to provide its perspective on the story. IFC Work refused to acknowledge any negligence on its part. While it stated that it had worked with an external party responsible for recruiting workers in Poland, it also maintained that it had provided timely and adequate information about the type of work and salary to the couple in question and had promptly resolved the housing issue following their complaint. The position of IFC Work was duly reflected in the article. After publication, the article was amended twice to highlight additional details provided by IFC Work, including a link to its statement on the agency's website.

In December 2022, following IFC Work's complaint, the Netherlands Press Council (*Raad voor de Journalistiek* – RVDJ) found that NOS had acted carelessly by focusing its reporting on IFC Work rather than an external recruiter in Poland. Following this decision, NOS modified the article again, including a summary of the RVDJ's findings and a link to its full version.

In court proceedings, IFC Work argued that NOS had infringed upon its reputation by mentioning the name alongside strong emotive terms, such as "modern slavery", and sought damages for the harm suffered as a result.

In analysing whether NOS's media freedom could be lawfully restricted, the court invoked Article 10 of the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR) on journalists' rights, duties and responsibilities. The court emphasised that the article in question

contributed to the public debate about the vulnerability of migrant workers in the Netherlands. It was also determined that all statements of fact made in the article were supported by relevant evidence, while the value judgments were not excessive. Furthermore, NOS ensured that IFC Work could exercise its right to reply both before and after publication. The court also emphasised that mentioning the name of the agency was appropriate as it ensured the verifiability of the reporting. Lastly, IFC Work failed to prove that the publication had damaged its reputation.

The judgment reflects the Dutch court’s strong commitment to protecting media outlets in fulfilling their role as "public watchdogs".

District Court of Central Netherlands, judgment of 31 December 2024, ECLI:NL:RBMNE:2024:7291

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