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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: Pauline Durand-Vialle

Maja Cappello, Editor • Amélie Lacourt, Justine Radel, Sophie Valais, Diego de la Vega, 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:

Aurélie Courtinat • Paul Green • Udo Lücke • Marco Polo Sarl • Erwin Rohwer • Sonja Schmidt • Nathalie Sturlèse • Ulrike Welsch

Proofreading of original texts:

Amélie Lacourt, Alexandra Ross and Diego de la Vega • Linda Byrne • David Windsor • Aurélie Courtinat • Barbara Grokenberger

Web Design:

Coordination: Cyril Chaboisseau, European Audiovisual Observatory

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EDITORIAL

The year 2026 has begun amid full-scale geopolitical turmoil. In the midst of this new complexity, which is difficult even for experts to understand, it seems that the average video on demand (VoD) viewer is incapable of focusing on a single screen at a time. Ironic, isn't it? Well, that is at least what Matt Damon was told by Netflix when working on his latest film: "It wouldn't be terrible if you reiterated the plot three or four times in the dialogue because people are on their phones while they're watching." And then, the logical conclusion for him was that this was "going to really start to infringe on how we're telling these stories".

Indeed, one of the recurring criticisms of content produced by streamers is the dumbing down of the audiovisual experience. Another criticism is that the stories told and how they are told have become uniform. They say that everything seems the same, and this has an impact on diversity. In order to counteract this trend, in France, for instance, the *Décret SMAD* has been amended to prevent investments from concentrating too heavily on a single genre, particularly fiction, to strengthen the diversity of audiovisual works.

One thing is certain: the multiscreen environment is here to stay and continues to generate headlines for our newsletter.

If TV is your medium of choice, you might be interested in recent decisions by media regulators from rulings on the broadcast of the *Chernobyl* mini-series in Ukraine, to sanctions for sound violations in Moldova or breaches of sponsorship rules in Norway. In parallel, Greece has enacted new legislation implementing the European Media Freedom Act (EMFA), with particular attention to the public broadcaster.

Meanwhile, platforms remain in the spotlight. The European Commission fined X €120 million under the Digital Services Act (DSA), while German courts ruled that Facebook is bound by transparency requirements set out in the German Media State Treaty and that Twitch live-stream providers must comply with youth protection rules established under broadcasting law. Protection of minors continues to be a central concern. In the UK, for example, Ofcom fined AVS Group, for failing in particular to comply with its duties to prevent children from encountering pornographic content on its websites through the use of highly effective age assurance.

As can be seen, the multi-screen, connected environment poses a variety of problems and risks that extend beyond uniformisation and "dumbing down". This is why education remains key. To gain a new perspective on this issue, please refer to the recent Council of Europe's CDMSI policy document on national media and information literacy strategies.

So, now put away all other screens! This newsletter is so packed with interesting information that you won't be able to tear your eyes away from it. □□

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Enjoy the read and best wishes for 2026!

Maja Cappello, Editor

European Audiovisual Observatory

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INTERNATIONAL

COUNCIL OF EUROPE

COE: EUROPEAN COURT OF HUMAN RIGHTS

European Court of Human Rights: Moving goalposts in frequency allocation procedure leads to a violation of freedom of expression

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

The European Court of Human Rights judgment in *Europa Way S.r.l. v. Italy* of 27 November 2025 provides interesting insights into how the foreseeability of licensing procedures and the independence of national regulatory authorities can affect the right to freedom of expression of broadcasting companies. The Court held unanimously that there had been a violation of Article 10 of the European Convention on Human Rights (ECHR).

Legislative background and facts

In a 2009 resolution, the *Autorità per le garanzie nelle comunicazioni* (the Italian communications regulator, AGCOM) set out the criteria for the complete digitalisation of terrestrial networks. Digital frequencies would be allocated free of charge under a "beauty contest" bidding model to operators who met the conditions set out in the selection procedure. This arrangement was subsequently enshrined in law to ensure a more solid legal basis for opening the market to new operators. Detailed procedural rules were developed and published, pursuant to which the applicant company was the only bidder for one of the available frequencies.

During parliamentary debates, some MPs criticised the free-of-charge allocation of frequencies and called for a selection procedure for frequencies to be allocated in return for payment. The Ministry of Economic Development subsequently suspended and then annulled the bidding process and replaced it with a fee-based selection procedure. These changes were also given effect in legislative amendments.

The applicant company took legal action challenging the suspension and annulment of the original bidding process and its replacement with a fee-based selection procedure, first in the Lazio Regional Administrative Tribunal and on appeal to the *Consiglio di Stato* (Council of state). The latter sought a preliminary ruling from the Court of Justice of the European Union (CJEU) on the interpretation of EU law on matters of competition and electronic communications. The CJEU held that the EU's Framework Directive precluded the annulment of an ongoing

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selection procedure such as in the present case. It added that member states enjoy “unfettered discretion” in organising competitive procedures in the context of allocating audiovisual resources, as long as they are based on objective, transparent, non-discriminatory and proportionate criteria. It also found that the applicant company could not claim an entitlement to the frequency for which it had bid.

The *Consiglio di Stato* ruled partly in favour of the applicant company and declined to apply the legislative provision that violated the Framework Directive. AGCOM reacted by confirming the replacement of the original bidding procedure with the fee-based procedure. The *Consiglio di Stato* dismissed the company’s remaining complaints.

The merits

At the time of the annulment of the original bidding process, even though the applicant company was the only participant allowed to bid, it had not received precise, unconditional assurances that it would be awarded any frequencies. The allocation of frequencies was subject to a positive assessment by a commission confirming that the applicant company met a number of technical and financial requirements. In light of these circumstances and following the finding of the CJEU, the Court agreed with the Italian Government that, pending that assessment, the applicant company could not claim to be entitled to the frequency it had applied for.

Nevertheless, the Court did find that there had been an interference with the applicant company’s right to freedom of expression. The annulment of the bidding process in which the applicant had participated and its replacement with a new procedure with significantly different conditions and criteria for allocation had the effect of undermining the company’s ability to obtain use rights over digital terrestrial frequencies, and was thus an interference with its freedom to impart information and ideas.

Under the third sentence of Article 10(1), states are allowed to regulate how broadcasting is organised in their territories, especially in its technical aspects, but licensing systems or other such procedures must comply with the requirements of Article 10(2). The Court pointed out that the state’s negative obligation not to interfere with the right to freedom of expression is linked to its positive obligation to ensure a proper legal and administrative framework to guarantee media pluralism.

In assessing whether the interference in the present case was prescribed by law, the Court recalled that the notion of law comprises statute law, judge-made law and rules of international law. Statute law includes lower-ranking statutes and regulations made by professional regulatory bodies under independent rule-making powers delegated to them by parliament. The Court also recalled that “prescribed by law” refers to quality of law as the law in question should be accessible and foreseeable as to its effects. Foreseeability further implies that the law is compatible with the rule of law, meaning that there must be adequate safeguards in domestic law against arbitrary interferences by public authorities. In

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matters with implications for fundamental rights, any legal discretion granted to public authorities must be clearly delineated in terms of its scope and how it is exercised. In respect of licensing or allocation procedures, for instance, the criteria must be applied in a way that provides sufficient guarantees against arbitrariness.

On the back of a detailed consideration of the legislative and administrative decisions made by the Italian authorities, the Court concluded that the contested measures failed to comply with domestic law and therefore could not be considered to have been “prescribed by law”. The Court then went on to articulate an important principle: “in the audiovisual media sector, and particularly in the context of the allocation of audiovisual resources, regulatory governance by an independent authority exercising clearly defined powers delegated by the legislature constitutes one of the main safeguards against arbitrary interference with the right to impart information and ideas”. The Court then unpacked this principle further, drawing on relevant recommendations and a declaration by the Council of Europe’s Committee of Ministers. Those texts underscore states’ obligation to devise an appropriate legislative framework to ensure that the independence of regulatory authorities is not only guaranteed in law, but also borne out in practice.

In the instant case, the Italian legislature had given AGCOM the power to regulate procedures for the allocation of digital terrestrial frequencies. The detailed criteria developed by AGCOM for that purpose were enshrined in law to give them a stronger legal basis. The Court held that the subsequent suspension by ministerial decree and then the annulment by legislation of the original bidding process constituted an interference with AGCOM’s functioning, which undermined its independence.

All of this led the Court to conclude that the legislative and administrative framework governing the allocation of digital terrestrial frequencies was not foreseeable and failed to provide adequate safeguards against arbitrariness. The interference with the applicant company’s freedom of expression therefore did not meet the standard of lawfulness required under the ECHR as it did not comply with relevant domestic law nor with the "quality of law" requirements. The Court accordingly found that Article 10 had been breached without the need to determine whether the interference pursued a legitimate aim or was necessary and proportionate.

As a post-scriptum, IRIS readers may be interested to learn that the Court cited passages from the 2019 IRIS Special, *The independence of media regulatory authorities in Europe*.

Europa Way S.r.l. v. Italy, no. 64356/19, 27 November 2025 ECLI:CE:ECHR:2025:1127JUD006435619

https://hudoc.echr.coe.int/eng?i=001-246134

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COE: MEDIA DIVISION

CDMSI adopts Guidance Note on generative AI implications for freedom of expression

Freedom of Expression and CDMSI Division
Council of Europe

During its 28th plenary meeting held between 3 and 5 December 2025, the Council of Europe's Steering Committee on Media and Information Society (CDMSI) adopted a Guidance Note on generative AI implications for freedom of expression.

The new Guidance Note focuses on the implications of Generative AI for freedom of expression. Providing for unimagined opportunities at scale and at speed, Generative AI also raises concerns regarding the lack of transparency, quality, accuracy, repeatability and reliability of AI-generated content. The Guidance Note addresses these issues firstly by outlining the key characteristics of Generative AI technology and its lifecycle. Then, it identifies the structural implications that, both at an individual and societal level, affect the foundations of freedom of expression. Standardisation of expression, hallucination, deep fakes, voice cloning, disinformation and opinion manipulation are only some of the known use cases. Finally, the document delivers a concrete set of actionable measures for policymakers and other relevant stakeholders through an agile governance cycle built on four interlocking areas: observe, assess, enable and empower.

Guidance Note on Generative AI implications for freedom of expression

https://rm.coe.int/cdmsi-2025-15rev-guidance-note-on-the-implications-of-generative-artif/488029df80

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COE: MEDIA DIVISION

CDMSI adopts feasibility study on freedom of expression in immersive realities

Freedom of Expression and CDMSI Division
Council of Europe

During its 28th plenary meeting held between 3 and 5 December 2025, the Council of Europe's Steering Committee on Media and Information Society (CDMSI) adopted a "Feasibility Study on Benefits and Challenges to Freedom of Expression in Immersive Realities".

The newly adopted feasibility study offers the Council of Europe's first in-depth analysis of how immersive technologies are reshaping the exercise of freedom of expression, providing timely clarity for policymakers navigating the rapid shift towards spatial computing. It demonstrates that XR environments, where expression takes embodied, behavioural and multisensory forms, not only amplify opportunities for creativity and civic engagement, but also generate unprecedented risks linked to surveillance, manipulation, moderation and inequality. Crucially, the study concludes that the European Convention on Human Rights, particularly Article 10, already provides a sufficiently flexible and resilient framework to address these challenges, while identifying specific areas where targeted interpretative guidance and soft-law instruments would add real value in safeguarding fundamental rights as immersive realities evolve.

Feasibility Study on Benefits and Challenges to Freedom of Expression in Immersive Realities

https://rm.coe.int/cdmsi-2025-10-draft-feasibility-study-benefits-and-challenges-to-foe-i/488029b847

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COE: MEDIA DIVISION

CDMSI adopts new policy document to strengthen information integrity

Freedom of Expression and CDMSI Division
Council of Europe

During its 28th plenary meeting held between 3 and 5 December 2025, the Council of Europe's Steering Committee on Media and Information Society (CDMSI) adopted a new policy document entitled "Resisting disinformation: 10 building blocks to strengthen information integrity".

Adopted in a context of growing geopolitical tension, rapid technological change and mounting pressure on democratic institutions, the document provides actionable guidance to help member states counter disinformation and related information disorders in a coherent and effective manner. Placing the concept of information integrity at the centre of policy responses, the document recognises that disinformation is part of a broader ecosystem of harmful information practices, including propaganda and foreign information manipulation and interference. It is structured around ten "building blocks", with the development of a comprehensive national strategy as its core objective. This strategy is reinforced by five key policy pillars: enhancing research and monitoring; strengthening media and information literacy and empowering users; supporting quality journalism and fostering media resilience; safeguarding the integrity of elections; and promoting competition and accountability in the digital ecosystem. In addition, these measures are grounded in four foundational principles that member states are called upon to observe: freedom of expression, international co-operation, multi-stakeholder engagement and long-term trust-building. The document also underlines that all measures to counter disinformation must fully comply with the European Convention on Human Rights, notably Article 10 on freedom of expression, and prioritise preventive and long-term, resilience-building responses.

Policy document to strengthen information integrity

https://rm.coe.int/cdmsi-2025-17rev-e-clean-resisting-disinformation-10-building-blocks-f/488029df7d

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COE: MEDIA DIVISION

CDMSI adopts policy document on national media and information literacy strategies

Freedom of Expression and CDMSI Division
Council of Europe

During its 28th plenary meeting held between 3 and 5 December 2025, the Council of Europe's Steering Committee on Media and Information Society (CDMSI) adopted a policy document entitled "National Media and Information Literacy (MIL) Strategies: Practical Steps and Indicators".

The policy document aims to support governments in developing comprehensive national strategies that strengthen citizens' ability to access, critically evaluate, and responsibly create and share information throughout life. It contains guidelines structured around five interconnected policy areas: strong political leadership and coherent policy and regulatory frameworks; the development of a robust evidence base to inform policymaking and measure progress; the systematic integration of MIL across formal, non-formal and lifelong education, supported by training and quality learning resources; inclusive citizen empowerment through awareness-raising and engagement initiatives, with particular attention to vulnerable and under-represented groups; and sustained multi-stakeholder cooperation among public authorities, regulatory bodies, media, civil society, academia and the private sector. An explanatory report and practical indicators accompany the document to support effective implementation, monitoring and continuous improvement.

Policy Document on National Media and Information Literacy Strategies

https://rm.coe.int/cdmsi-2025-09-guidelines-for-national-media-and-information-literacy-s/488029ec67

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EUROPEAN UNION

EU: EUROPEAN COMMISSION

European Commission fines X €120 million under the Digital Services Act

Paola Bellissens
European Audiovisual Observatory

On 5 December 2025, the European Commission ordered social network X to pay a fine of €120 million. This fine follows the opening of formal proceedings by the European institution on 18 December 2023, which aimed to assess whether X had breached the provisions of the Digital Services Act (DSA). The amount of the fine was determined on the basis of the infringements committed, including their gravity, duration and impact. The Commission considered that the social network had failed to fulfil its obligations for three reasons.

Firstly, the Commission ruled that the use of the "blue checkmark" to denote certified accounts was misleading. This checkmark could be purchased by any user in order to obtain certification without any verification by X. This constituted an infringement of the DSA's obligation to prohibit deceptive practices. Such certifications meant that X users were more likely to be deceived, defrauded and manipulated.

Secondly, it was considered that X's advertising repository did not meet the transparency and accessibility criteria set out in Article 15 of the DSA. This repository should be available and accessible to enable researchers and civil society to identify scams, threats and false advertising. Some of the information in the repository set up by X was incorrect. These shortcomings prevented researchers from examining the potential risks of online advertising.

Thirdly, the Commission concluded that X had not complied with its obligation to grant researchers access to the platform's audience data. In the present case, researchers could no longer independently access the data. In addition, the procedures put in place by the social network to provide access to the data were fraught with obstacles. This undermined research into several systemic risks within the EU.

From 5 December 2025, X had 60 working days to inform the Commission of the measures it intended to take regarding the blue checkmark. It also had 90 working days to remedy infringements relating to the advertising repository and researchers' access to public data. Following these deadlines, the Commission will have one month to issue its final decision.

Commission fines X €120 million under the Digital Services Act (La Commission inflige à X une amende de 120 millions d'euros au titre du

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Règlement sur les services numériques)

https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2934

Commission fines X € 120 million under the Digital Services Act

https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2934

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EU: EUROPEAN COMMISSION

[HU] Infringement procedure against Hungary for failing to comply with EMFA and AVMSD

Bálint Barki

The European Commission has opened an infringement procedure against Hungary for failure to comply with certain provisions of the European Media Freedom Act and the Audiovisual Media Services Directive.

According to the Commission, Hungary does not comply with provisions concerning interference in the work of journalists and media outlets in Hungary, including restrictions on their economic activities and editorial freedom. The Commission also states that Hungarian law does not provide adequate protection for the preservation of journalistic sources and confidential communications, nor sufficient judicial protection in the event of a breach of these rights. In addition, Hungary fails to comply with the EMFA's provisions on public service media, the assessment of media market concentrations and the allocation of state advertising.

The issue of non-compliance with the provisions listed above had already been raised when the EMFA took effect, as highlighted, for example, in a report by Mérték Media Monitoring.

The Commission also considers that Hungary is in breach of certain provisions of the Audiovisual Media Services Directive relating to the independence of the national media regulator. Its Rule of Law Report has highlighted the Hungarian Media Council's lack of political independence every year, but the Commission has yet to take any legal action to protect it.

Commission calls on Hungary to comply with European Media Freedom Act and Audiovisual Media Services Directive

https://digital-strategy.ec.europa.eu/en/news/commission-calls-hungary-comply-european-media-freedom-act-and-audiovisual-media-services-directive

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NATIONAL

ARMENIA

[AM] Media coverage involving minors – regulatory assessment and ethical self-regulation

Anna Hovhanisyan
Commission on TV and Radio of Armenia

On 4 December 2025, the Commission on Television and Radio of the Republic of Armenia (CTR) adopted a decision to discontinue an administrative proceeding against Shark LLC, the broadcaster of the television programme *5th Channel*, in connection with the coverage of a tragic event involving children. The issue at stake was whether the manner in which minors were shown in the coverage of a child's death complied with the legal safeguards for the protection of children in audiovisual media.

The case followed an exercise involving the monitoring of a programme broadcast on 5 November 2025, which reported on a tragic incident involving a family with several children, including the death of one of them. During the report, the faces of the children were visible, and a general verbal reference was made to the children having "apparent health problems".

The CTR identified potential indications of a breach of Article 9(3) of the Law of the Republic of Armenia on Audiovisual Media (Audiovisual Media Law), which restricts the broadcasting of content that may harm the health, mental or physical development, and upbringing of minors. Reference was also made to CTR Decision No. 73-N of 28 June 2024, which establishes criteria for determining audiovisual programmes potentially harmful to minors. An administrative procedure was initiated, and the broadcaster was invited to submit explanations.

The broadcaster submitted that the report had been produced exclusively in the public interest, aimed at drawing attention to the severe social conditions in which the children were living, including circumstances suggesting that the tragic death of one child may have occurred in the presence of another minor. It emphasised that filming had taken place in the presence of the children's parent, who had given verbal consent for the interviews and recording.

According to the broadcaster, no identifying personal data were disclosed, and additional measures were taken to minimise the risk of identification. It further argued that the presenter's statement regarding the children's health was general and descriptive in nature, did not contain sensitive medical data, and was based on the journalist's direct observations of the living conditions at the scene. The broadcaster also referred to its compliance with the internal code of ethics.

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In its assessment, the CTR reaffirmed the importance of editorial independence and freedom of expression in a democratic society, while stressing that the protection of minors and their best interests constitutes a key element of the public interest pursued by audiovisual regulation.

Although the CTR noted that the minors' faces were visible during the broadcast, it accepted that the verbal consent provided by the parent could be regarded as a lawful basis for filming and interviewing the children in the specific circumstances of the case.

The CTR further concluded that the report's content did not include elements such as violence or horror, nor did it involve the disclosure of special categories of personal data, including detailed health information. As such, the programme did not fall within the category of content subject to time-of-day restrictions under Article 9(3) of the Audiovisual Media Law.

However, a decisive factor in the CTR's reasoning was that the issues raised primarily concerned professional ethics rather than regulatory compliance. The broadcaster's internal ethics committee reviewed the matter and adopted internal guidance aimed at reinforcing sensitivity when reporting on minors. In addition, reflecting on the case, the Armenian Media Ethics Observatory issued a public statement reminding media outlets of the need for particular care when reporting on children and other vulnerable groups, and encouraging compliance with national ethical codes and international standards, including UNICEF guidelines on reporting about children.

The CTR welcomed the broadcaster's initiative to seek further guidance from the Human Rights Defender, viewing this step as consistent with international best practices on media self-regulation.

Taking into account the public-interest nature of the reporting, the absence of evidence of harm to the minors, and the role played by ethical self-regulatory mechanisms, the CTR concluded that there was no administrative offence under the Audiovisual Media Law. In particular, the broadcaster's internal ethics committee reviewed the report. It acknowledged that, while certain elements could be considered sensitive from an ethical perspective, the coverage had been prepared without intent to breach regulatory requirements and in pursuit of accurate and socially relevant reporting. As a result of this review, internal guidance was issued to reinforce greater sensitivity in future reporting involving minors, technical measures were applied to the problematic footage, and the audio segments featuring the children were edited. Accordingly, the administrative proceeding was discontinued.

The decision illustrates the CTR's approach of clearly distinguishing between regulatory enforcement and issues better addressed through ethical self-regulation while reaffirming that the best interests of the child must remain a primary consideration in media coverage.

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Decision No. 143-A of the Commission on Television and Radio (CTR, Armenia) of 4 December 2025 on the termination of administrative proceedings against «SHARK» LLC

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GERMANY

[DE] Facebook must fulfil transparency obligations under the German State Media Treaty until European law issues have been clarified

Sandra Schmitz-Berndt
Institute of European Media Law

The Higher Administrative Court (OVG) for the state of Schleswig-Holstein confirmed the decision of the lower court in summary proceedings on 18 December 2025 (Case No. 6 MB 24/25), according to which Facebook users are currently not sufficiently informed about the central criteria according to which content is displayed on the platform.

The media law complaint issued by the Hamburg/Schleswig-Holstein Media Authority in October 2024 and the requirement for transparency information to be easily viewed, directly accessible and permanently available in accordance with the Interstate Media Treaty (MStV) must therefore be complied with for the time being.

According to Section 93 sentence 1 of the MStV, providers of media intermediaries such as Facebook must provide their users in Germany with information on the central sorting criteria for content in such a way that it is easy to find, directly accessible and constantly available. Under media law, the term "media intermediary" pursuant to Section 2 (2) No. 16 MStV refers to a telemedium that aggregates, selects and makes publicly accessible journalistic and editorial content from third parties without bundling it into its own overall offering. This only covers intermediaries that provide such content; however, it is sufficient if journalistic-editorial content is merely distributed alongside other content. The aim of the transparency rule in Section 93 MStV is to sensitise users to how the algorithms work and to give them an insight into how content is compiled. Meta had failed to fulfil this obligation and argued, *inter alia*, that the provisions in the MStV violated EU law, specifically the E-Commerce Directive (ECD), the Digital Services Act (DSA) and the Platform-to-Business Regulation (P2B Regulation). On 30 October 2024, Meta filed an action for annulment against the media authority's decision and at the same time applied for the suspensive effect to be restored. This action for annulment was rejected by the Administrative Court (VG), as the public interest in enforcement outweighed the private interest in suspension. The substantive legal question of the applicability of Section 93 MStV against the background of EU law could not be clarified conclusively in summary proceedings. Meta lodged an appeal against this decision, in which it primarily argued that the court had failed to address the issue of EU law and that the transparency information last updated on 4 June 2025 was compatible with Section 93 MStV.

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With regard to the updated information, the Schleswig-Holstein OVG also saw strong indications that Meta was in breach of transparency obligations.

At the time of the complaint, the information provided on Facebook, such as the "Transparency Centre", was neither easy to find nor directly accessible. The "Why am I seeing this post?" function was also only available in the app and its content was "superficial and empty (*phrasenhaft*)", according to the court.

Furthermore, the OVG also takes the view that questions of European law cannot be clarified conclusively in summary proceedings, including the question of whether the transparency provision of the MStV, which also applies to providers of media intermediaries based in other member states, violates the country of origin principle, which is enshrined in Article 3 of the ECD and was transposed into national law in Germany by Section 3 of the DSA. It is questionable whether Article 1 (6) of the ECD can be used to justify the imposition of the market place principle in the MStV, as the ECD does not affect measures to protect cultural diversity and pluralism. The OVG assumes that Section 93 of the MStV is a provision that serves to protect pluralism. However, the meaning of Article 1 paragraph 6 of the ECD is "ambiguous in many respects and [...] also highly controversial in academic discourse". The key issue is whether the country of origin principle is mandatory for information society services or whether national legislators have room for manoeuvre to pursue their own media policy objectives. A similar question is whether Section 93 MStV could be applicable to Meta in view of the transparency rules in Articles 14 and 27 of the DSA. This question also arises with regard to the P2B Regulation. Like the DSA, it aims at a functioning internal market (Article 114, Treaty on the Functioning of the European Union) and lays down rules to ensure transparency, fairness and effective remedies, such as search engines, for commercial users of online intermediary services and corporate websites.

The answer to these questions depends on the interpretation of the provisions of EU law, and this is ultimately the responsibility of the European Court of Justice (ECJ). In order to clarify the questions, the OVG referred to the main proceedings, from which a referral to the ECJ could be made if necessary. In the summary proceedings, the OVG assessed the consequences of refusing immediate enforcement in favour of the immediately applicable transparency obligation provision. In particular, the central role of services such as Facebook in shaping public opinion played a role. The increasing influence of the platform is closely linked to the ad-financed business model, which is dependent on the fastest possible growth in user reach. Transparency targets are therefore particularly important in order to prevent a biased or one-sided selection of content. The public interest in immediate compliance with the transparency obligations was rated higher by the OVG than Meta's economic interests. The OVG's decision is final.

In light of the fact that the country of origin principle is a central control instrument under EU law in both the ECD and the Audiovisual Media Services Directive (AVMSD) and that this principle is of great importance for member states' room for manoeuvre, the issues in the legal dispute are urgent and topical legal issues that require fundamental clarification.

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Link zur Entscheidung des OVG Schleswig-Holstein

https://www.gesetze-rechtsprechung.sh.juris.de/bssh/document/NJRE001628453

Link to the decision of the Schleswig-Holstein OVG

Link zur Pressemitteilung des OVG Schleswig-Holstein

https://www.schleswig-holstein.de/DE/justiz/gerichte-und-justizbehoerden/OVG/Presse/PI_OVG/2025_12_19_Meta_muss_Facebook_transparenter_machen?nn=e2ec8178-da32-49c8-b837-48df11a696d2

Link to the press release of the Schleswig-Holstein OVG

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[DE] Provider of pornographic websites successful following an urgent appeal against enforcement of blocking orders due to potential violation of EU law

Sandra Schmitz-Berndt
Institute of European Media Law

The Düsseldorf Administrative Court upheld urgent applications by Aylo Freesites Ltd (the Applicant) in four decisions (Case Nos. 27 L 1347/24, 27 L 1348/24, 27 L 1349/24 and 27 L 1350/24) dated 19 November 2025. The court ordered that the blocking orders issued by the State Media Authority of North Rhine-Westphalia (LfM NRW) against Internet access providers (access providers) with regard to the German-language telemedia offers *Pornhub* and *Youporn* operated by the Applicant are not to be enforced for the time being. This means that access to the pornographic content in question by the access providers involved in the proceedings as defendants must be unblocked for the time being.

The decisions that have now been issued are part of a legal dispute that has been ongoing for more than five years. The LfM NRW had already determined that the Applicant was in breach of the provisions of the State Treaty on the Protection of Minors in the Media (JMStV) due to pornographic and developmentally harmful content within its offer. In orders dated 16 June 2020, the LfM NRW issued an objection to this content and prohibited its future distribution, insofar as the content is distributed outside of closed user groups. This basic ruling was followed by several years of legal proceedings. Initially, Aylo Freesites Ltd's action for annulment and urgent application against the immediately enforceable basic order were unsuccessful. The appeal against the rejection of the urgent application was also rejected by the Higher Administrative Court of North Rhine-Westphalia (OVG NRW) in the last instance; no decision has yet been made in the appeal proceedings. In December 2023, an application to the LfM NRW for cancellation of the basic ruling failed. The appeal against this and an additional urgent application are still pending. As the basic order was subsequently not complied with despite its immediate enforceability and as the imposition of a penalty of EUR 65 000 against Aylo Freesites Ltd also had no effect, the state media authorities decided to take joint action against access providers based in Germany in order to prevent the distribution of pornographic content.

In notices dated 2 April 2024, the LfM NRW ordered two access providers based within its competence, Telekom and Vodafone, to block the aforementioned pornographic telemedia content from being accessed from Germany. Access providers and Aylo Freesites Ltd defended themselves against these blocking orders before the Düsseldorf Administrative Court. The reason for the summary proceedings was that neither the objection nor the action for annulment have any suspensive effect in the case of providers whose content is illegal under youth media protection law, so that the access providers concerned had to disable access to the content immediately and continue to do so even after the action had been filed. For this reason, the applications for urgent legal protection were

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aimed at ordering the suspension of the enforcement of the blocking orders of 2 April 2024.

Unlike examples heard before the Berlin Administrative Court, (Case Nos. 32 L 25/25 and 32 L 26/25) regarding blocking orders against Tele Columbus AG as an access provider, the urgent applications against the enforcement measures before the Düsseldorf Administrative Court were successful: the same chamber that had previously declared the basic order to be lawful now suspended the enforcement of the blocking order for the time being.

While other administrative courts have mainly based their decisions on the fact that the basic order is immediately enforceable and that Aylo Freesites Ltd is obliged to implement it and therefore does not need legal protection, the Düsseldorf Administrative Court now emphasised that the blocking order is a further onerous measure whose effect is not congruent with the effect of the basic order.

It was therefore incumbent on the court, in accordance with Section 80 (5) sentence 1 of the German Administrative Court Code, to examine whether the public interest in the immediate enforcement of the contested order outweighs the Applicant's interest in a suspension in order to be able to order the suspension of an action against an administrative act (here: the blocking orders). In preliminary legal protection, the Applicant's interest in suspension prevails if a summary examination shows that the administrative act is obviously unlawful and infringes his/her rights as a third party, as there is no general public interest in the enforcement of unlawful measures. In this summary examination, the Düsseldorf Administrative Court came to the conclusion that the blocking orders of the LfM NRW were contrary to EU law.

The court therefore refrained from examining whether the requirements of the legal basis of the blocking order were met. Rather, the court only dealt with the question of whether a violation of the provisions of the JMStV could exist at all and came to the conclusion that Section 4 (2) No. 1 JMStV on the classification of pornographic content as illegal under youth media protection law did not apply to the Applicant based in Cyprus due to overriding EU law. The application of the provision of the JMStV to a provider established in another EU country violates the country of origin principle under EU law pursuant to Article 3 of the E-Commerce Directive (ECD), which is transposed into national law by Section 3 of the Digital Services Law (DDG). The provision of the JMStV constitutes an abstract and general prohibition that limits the free movement of digital services from other EU member states. In particular, it is not framework legislation without direct legal effect. The limitation is also not justified by the exceptional circumstances of Article 3 paragraph 4 ECD or Section 3 paragraph 5 DDG. A limitation would only be possible through a case-by-case measure under the Digital Services Act (DSA), not through a general legal prohibition. In its reasoning, the court relied on recent decisions of the ECJ, including in the *Airbnb Ireland and Others* case (C-662/22 et al.) on permissible exceptions to the country of origin principle, according to which the measures permitted under the exception must, according to the wording, concern "a specific information society service" (Article 3 paragraph 4

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letter a ii) ECD). Taking this case law into account, the prohibition in Section 4(2) JMStV on offering pornographic content without effective access restriction does not fulfil the requirements for an exception to the country of origin principle, as it applies indiscriminately to all telemedia providers. The national regulation therefore does not fulfil the requirements of EU law. As the blocking order is based on a basis contrary to EU law, the Applicant's interest in suspension prevails. Even the planned new version of the JMStV, which came into force on 1 December 2025, will not change this in the court's opinion.

The enforcement of the blocking orders against the access providers is therefore provisionally suspended until a decision has been made on the main issue. Appeals against all decisions can be lodged with the OVG NRW. The LfM NRW has already announced that it will have the decisions reviewed.

If the opinion of the Düsseldorf Administrative Court is confirmed, this could have far-reaching consequences for the protection of minors in the media, as German law would have no power against providers from other member states due to the freedom to provide services and freedom of establishment under EU law. Both prohibition orders and blocking orders require an abstract and general legal basis; however, if the application of such an order against providers from other EU member states generally violates the country of origin principle, it can only be applied against domestic providers. Meaningful protection of minors could therefore only be regulated at EU level, which would be problematic as an interpretative result in view of the lack of harmonisation of EU law in this respect.

Entscheidung des VG Düsseldorf (Az. 27 L 1347/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1347_24_Beschluss_20251119.html

Link to the decision of the Düsseldorf Administrative Court (Ref. 27 L 1347/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1348/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1348_24_Beschluss_20251119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1348/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1349/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1349_24_Beschluss_20251119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1349/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1350/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1350_24_Beschluss_202

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51119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1350/24)

Link zur Stellungnahme des Direktors der Landesanstalt für Medien NRW

https://www.medienanstalt-nrw.de/presse/pressemitteilungen/pressemitteilungen-2025/november/entscheidung-des-vg-duesseldorf-zu-eilantraegen-pornografischer-internetangebote.html

Link to the statement by the Director of the Media Authority NRW

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[DE] Providers of Twitch live streams must comply with youth media protection rules under broadcasting law

Sandra Schmitz-Berndt
Institute of European Media Law

In its judgment of 25 November 2020, the Administrative Court of Cologne (Case No. 6 K 2650/22) confirmed that streams that are broadcast live on the Twitch platform are to be classified as broadcasting and must comply with the relevant regulations for broadcasters on the protection of minors in the media.

In 2021, the plaintiff had broadcast the first eight minutes of the film *Mortal Kombat* on his live stream on the Twitch platform. This sequence contained fight scenes and depictions of violence that are not suitable for children and young people under the age of 16. The clip was shown before 10 p.m. The State Media Authority of North Rhine-Westphalia (LfM NRW) saw this as a violation of youth protection regulations under broadcasting law and objected to the broadcast in a decision dated 29 March 2022. The provider filed an action against this decision on the grounds that the Twitch platform provides for age labelling from 18 years of age and that the applicable youth protection regulations had been complied with.

The court has now ruled that mere age labelling is not sufficient. Despite its transmission via the Internet, the programme was a broadcasting service. Therefore, the legal requirements for the protection of minors in the media had to be ensured with the means available to broadcasters. This includes, in particular, the limitation of the broadcast time, i.e. broadcasting only after 10 p.m.

In its judgment, the court particularly emphasised the fundamental separation between broadcasting and telemedia in the State Treaty on the Protection of Minors in the Media (JMStV). While in the area of telemedia, the liability lies primarily with the parents to install suitable youth protection programmes, they can rely on the providers themselves to comply with the legal youth protection requirements in the case of broadcasting services.

The court discussed the categorisation of a Twitch live stream as broadcasting in detail. According to the Interstate Media Treaty (MStV), broadcasting is a linear information and communication service. It comprises the organisation and distribution of moving images or sound content intended for the general public and for simultaneous reception, according to a broadcast schedule by means of telecommunications. In a livestream, the recipient can neither choose the start time of the broadcast nor fast-forward the transmission in question, which characterises the criterion of linearity. For the further (decisive) characteristic "according to a broadcast schedule", it is sufficient that a recognisable sequence of content and timing of further broadcasts is intended. The livestream at issue took place live and, as a rule, every Friday from 6 p.m. on a weekly basis under the name *FREIAB18*, so that it was broadcasting for which the plaintiff was also

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formally the holder of a broadcasting licence from the defendant.

As the stream in dispute was a developmentally harmful offer, the provider had to ensure that it could not normally be viewed by children and young people in the age groups concerned. The provider can fulfil its obligation pursuant to Section 5 (3) JMStV by technically or de facto preventing access or making access more difficult for the age groups concerned, by providing the content with a readable age label or by limiting the distribution period. The Cologne Administrative Court came to the conclusion that the possibility of fulfilling the obligation to restrict access by means of readable age labelling was only open to telemedia providers in accordance with the meaning and purpose of the provisions for the protection of minors. Despite media convergence, the legislator maintains the separation between broadcasting and telemedia, as the MStV also shows. This distinction should not be softened by technical solutions for the protection of minors, as parents should be able to rely on the different liabilities. As the plaintiff's live stream is to be categorised as a broadcasting service, it had to ensure the protection of minors using the means provided for broadcasters. The age labelling was therefore not sufficient, especially as it did not exist for access via the Twitch app.

The appeal against the judgment was allowed due to the fundamental importance of the case, as it raises a question that requires clarification and is relevant to the decision, in particular whether broadcasters can also implement the protection of minors by means of readable age labelling.

Link zur Pressemitteilung des VG Köln

https://www.vg-koeln.nrw.de/behoerde/presse/Pressemitteilungen/24_16122025/index.php

Link to the press release of the Cologne Administrative Court

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DENMARK

[DK] Declaration on the necessity of culture and media as a safeguard for our European democracies in the age of AI

Terese Foged
Legal expert

At an informal ministerial meeting in Copenhagen on 4 November 2025, held during the Danish EU Presidency, the Danish Minister for Culture gathered European ministers for culture and media. The ministers issued a joint statement: the "Declaration on the necessity of culture and media as a safeguard for our European democracies".

As part of its presidency, Denmark took a leading role in shaping the European response to the growing impact of artificial intelligence (AI) on culture and media. As such, the declaration notably highlighted that:

- The use of AI in producing and distributing cultural and media content raises ethical, societal and economic questions and questions of reliability.

- Culture, cultural heritage, and media policies must be a vital part of European collaboration and security to protect our democracies.

This initiative followed an open letter dated 22 October 2025 from 29 Danish rights holder organisations to the Minister for Culture. The letter stressed, in particular, the crucial need for fair compensation for creators – such as writers, musicians, film-makers, and artists – in an AI-driven era, arguing that the current situation puts unsustainable pressure on the cultural value chain and the legal framework designed to protect rights holders and culture. The rights holder organisations also called for Denmark to demonstrate leadership in the EU by ensuring that copyright remains strong within new AI regulation, to meet the challenges posed by AI use of human-made content.

During the meeting held on 4 November, the Danish Minister for Culture also presented the September 2025 report from the Danish Expert Group on Copyright and AI to his European counterparts. The report contains several recommendations, with two in particular identified as especially relevant for EU-wide regulation:

- Mandatory arbitration in press publication rights disputes

- Clarification that providing AI systems constitutes communication to the public of the content on which the systems are trained. The Expert Group's proposal also aims at ensuring that EU member states will have jurisdiction in AI court cases so that rights holders are not forced to start a court case in the US for example.

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Declaration on the necessity of culture and media as a safeguard for our European democracies

https://danish-presidency.consilium.europa.eu/media/vxjfaazq/declaration-on-the-necessity-of-culture-and-media.pdf

Faellesbrev til kulturministeren om AI og ophavsret

https://koda.dk/pdf/Faellesbrev_til_kulturministeren_om_AI_og_ophavsret

Open letter to the Minister for Culture from 29 Danish rights holder organisations

Rapport Ekspertgruppe for ophavsret og kunstig intelligens

https://kum.dk/fileadmin/_kum/1_Nyheder_og_presse/2025/Rapport_Ekspertgruppe_for_ophavsret_og_kunstig_intelligens.pdf

Report from the Expert Group on Copyright and AI

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SPAIN

[ES] CNMC closes competition proceedings against Google after accepting binding commitments to ensure transparency and fair remuneration for press publishers

Azahara Cañedo & Marta Rodriguez Castro

On 17 December 2025, the *Comisión Nacional de los Mercados y la Competencia* (National Commission on Markets and Competition – CNMC) decided to terminate the proceedings opened against Google for alleged anti-competitive practices affecting Spanish press publishers and news agencies. The CNMC closed the case after considering that the commitments submitted by Google on 19 March 2025 address the competition concerns identified.

Google has undertaken to improve negotiations relating to Extended News Preview (ENP) agreements, which affect Google Search, Google News and Google Discover, and GNS agreements (which only affect Google News Showcase), by making them more transparent and developing them in a more structured manner. Among the most significant corrective measures is Google's commitment to provide a detailed description of the methodology used to calculate the remuneration of press publishers and news agencies.

Google will also provide information on advertising revenues derived from the use of their content, the impression share attributable to the content of each press publisher and news agency, and the amount of additional remuneration derived from the exploitation of such content outside Spain but within the European Economic Area. Remuneration agreements will be reviewed annually and publishers will be able to request retroactive remuneration for the use of their content from 4 November 2021 (the date on which Article 129 bis of the Consolidated Text of the Intellectual Property Act entered into force). Google also committed not to retaliate against publishers (for example, by reducing the visibility of their content) during negotiation processes or if they decide to reject the agreements.

The proceedings were initiated in June 2021 following a complaint filed by the *Centro Español de Derechos Reprográficos* (Spanish Reprographic Rights Centre – CEDRO) against Google for abuse of a dominant position in the news aggregation and digital advertising markets and for alleged unfair competition. In its complaint, CEDRO argued that Google takes advantage of the dominant position of its Google Search, Google News, Google Discover and Google News Showcase services to impose unfair conditions on press publishers and news agencies for licensing the exploitation of their content protected by intellectual property rights.

The CNMC opened sanction proceedings against Google in March 2023. During the process, the *Asociación de Medios de Información* (Association of Information

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Media – AMI), the Atresmedia audiovisual group, the *Asociación Española de Editoriales de Publicaciones Periódicas* (Spanish Association of Periodical Publication Publishers – AEEPP) and the *Asociación de Revistas de Información* (Association of News Magazines – ARI) joined as interested parties. The case is now closed following the CNMC's acceptance of the 14 commitments submitted by Google in March 2025, with a duration of five years and the possibility of a further extension, and applicable to all Spanish press publishers and news agencies rather than just the parties involved in the proceedings.

Resolución del Consejo, GOOGLE RELATED RIGHTS, S/0013/22, 17 diciembre 2025

https://www.cnmc.es/sites/default/files/6330721.pdf

Resolution of the Council, Google related rights, S/0013/22, 17 December 2025

https://www.cnmc.es/sites/default/files/6330721.pdf

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FRANCE

[FR] ARCOM obtains the blocking of access to the *watchpeopledie* website from France

Amélie Blocman
Légipresse

In an application based on Articles 6, 6(3) and 6(4) of the Law of 21 June 2004 on confidence in the digital economy (LCEN), ARCOM brought an action before the president of the Paris Court of first instance in an expedited procedure on the merits, requesting that the main internet service providers (Orange, Free, Free Mobile, SFR, SFR Fibre, Bouygues Telecom) be ordered to take all appropriate measures to prevent access from French territory to the *watchpeopledie.tv* website. It maintains that this site is dedicated to the broadcasting of images of deliberate attacks on the integrity of the person and violent messages contrary to dignity, accessible to minors, as well as to the broadcasting of recordings of images relating to the commission of offences of deliberate attacks on the integrity of the person, likely to fall within the scope of articles 227-24 and 222-33-3 of the French Criminal Code.

The presiding judge noted that the site, which claimed to be for "adults only", did not in fact carry out any age verification, as access was based on a simple self-declaration. He noted, in the light of the documents produced by ARCOM and the Pôle national de lutte contre la haine en ligne, that the site was exclusively dedicated to the dissemination of videos, classified under different categories, depicting acts of torture, mutilation, performance, suicide and assault, sometimes in connection with terrorist organisations.

These extremely violent images, which focus on showing the bloody nature of the scene and the suffering of the tortured or murdered people, are clearly a serious and definite attack on human dignity and, in the absence of effective age control, are likely to constitute the offence of torture and the offence of broadcasting a violent message or one likely to cause serious harm to human dignity perceptible to a minor, as provided for and punishable under Article 227-24 of the French Penal Code, as well as other offences (broadcasting images of attacks on integrity, apology for terrorism, incitement to suicide, etc.). The disputed content therefore constitutes damage within the meaning of Article 6-3 of the LCEN, which must be brought to an end.

Noting the absence of legal notices identifying the person responsible for the site, the lack of any reaction to ARCOM's notifications and the fact that the site was hosted abroad by a service provider that did not respond to requests from the French authorities, the court ruled that it was difficult to take effective action against the publisher or host within a time frame compatible with the seriousness of the damage.

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It considered, in the light of Article 6 IV-A of the LCEN, which requires Internet Service Providers (ISPs) to contribute to the fight against offences against human dignity and certain offences, that ISPs, although subject to the principle of neutrality, are in a position to contribute to the cessation of the damage and that the requested blocking is appropriate, necessary and proportionate to the legitimate aim pursued, namely the cessation of this particularly serious damage, while respecting freedom of expression. As the site does not contain any information or opinions that contribute to a debate of general interest, but only extremely violent images that offend human dignity and are likely to shock a young audience, the restriction on freedom of communication appears justified.

ISPs are therefore enjoined to implement, within a fortnight, all appropriate measures to prevent access from French territory to the *watchpeopledie.tv* and *www.watchpeopledie.tv* websites and their subdomains, for a period corresponding to the persistence of the dissemination of illegal content, with the costs of these measures to be borne by the ISPs. The measures may be lifted at the request or with the agreement of ARCOM if the damage ceases. The anti-cybercrime office will be able to send its requests to the access providers in the case, in order to prevent access to any mirror site, in accordance with Article 6-4of the LCEN.

TJ Paris (procéd. accéléré au fond), 18 décembre 2025, n° 25/57898, Arcom c/ Orange, SFR et a.

https://www.doctrine.fr/d/TJ/Paris/2025/U7D87205DD8A94CBBA10E

TJ Paris (procéd. accéléré au fond), 18 décembre 2025, n° 25/57898, Arcom c/ Orange, SFR et a.

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[FR] Death of live streamer on *kick.com*: court rejects request for Australian platform to be fully blocked but orders targeted measures

Amélie Blocman
Légipresse

Following the live streaming, on 18 August 2025, of the death of Raphaël Graven, alias "Jean Pormanove", during a broadcast lasting around 300 hours on the channel of the same name on the Australian streaming platform *kick.com*, which has a French-language version, the French Minister for AI and the Digital Economy referred the case to the president of the Paris *Tribunal Judiciaire* (judicial court) under Article 6-3 of the *Loi pour la confiance dans l'économie numérique* (French Law on Confidence in the Digital Economy – LCEN) and EU Regulation (EU) 2022/2065 (Digital Services Act – DSA).

The French Government's main demands were for access to the *kick.com* platform and its sub-domains to be blocked for six months from French territory, for the "Jean Pormanove" room and so-called "mirror" rooms or rooms "linked to Raphaël Graven" to be removed or permanently blocked, and for the violent and humiliating content in which he had appeared to be removed and banned from being rebroadcast.

It should be noted that, under the terms of Article 6-3 of the LCEN, the president of the judicial court, ruling on the merits under the accelerated procedure, may only order a measure if it is justified by the damage it is intended to stop or prevent, is legally admissible, and does not disproportionately infringe the rights and freedoms in question, such as the right to freedom of expression.

The court first set out to identify the damage caused. It noted that, at least since December 2024, the "Jean Pormanove" channel had been broadcasting live programmes during which Raphaël Graven and an individual known as "Coudoux", who appeared disabled and under guardianship, had been subjected to multiple acts of violence and humiliation. The content had been presented as fun and festive, and the audience had been encouraged to pay money to continue watching it. Noting that these scenes had not been presented to the audience as fictional or scripted, that they had depicted people who were presented as vulnerable, and that they had been broadcast on a video game platform intended for a wide, mainly young, audience, the court considered that they seriously undermined human dignity and caused serious damage to public order, which had to be stopped or prevented.

On the other hand, with regard to other allegedly illegal content on the platform, the state had not produced sufficient evidence (footage, links, technical elements) to establish, apart from on the "Jean Pormanove" channel, the existence of a body of illegal content indicative of a harmful "systemic model".

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The court then analysed the measures that could be taken to stop or prevent the damage. With regard to the request for a general blocking of the *kick.com* platform, the court noted that the illegal content related only to the "Jean Pormanove" channel, which represented "far less than 1%" of the content on the French-language platform. It noted that Kick had produced evidence of the existence of general terms and conditions of use, moderation policies and reporting procedures, in particular a ban on certain violent, hateful or sexual content, and that there was no evidence of the existence of an overall harmful model based on the dissemination of illegal content. Accordingly, blocking access to *kick.com* and its sub-domains for six months from French territory would constitute a general measure seriously infringing freedom of expression and freedom of enterprise, disproportionate to the damage caused by a tiny fraction of the platform's content. The measure was therefore rejected as manifestly disproportionate.

With regard to the "Jean Pormanove" room and a list of so-called "mirror" rooms with this name in their title, the court noted that the content in question had now been removed, since the rooms in question were all inaccessible or empty of content. However, it noted that the warning and moderation mechanisms put in place were recent, and that although Kick had been aware of problematic content on the channel in question since at least December 2024, these procedures had not prevented it from reappearing. It ordered that the room be removed or kept inaccessible from French territory, subject to a provisional fine of €10 000 per infringement, for a maximum period of twelve months from the date of notification of the decision.

The state was also seeking the removal or blocking of a number of so-called "mirror" rooms or rooms "linked to Raphaël Graven". The court found that no evidence had been provided as to the actual content of these rooms, many of which were inaccessible or empty on the date of the decision. Furthermore, it was not possible to deduce from the mere use of the name Raphaël Graven or his alias "Jean Pormanove" that the content hosted was unlawful and harmful. A blanket ban or deletion of all rooms containing that name would amount to prohibiting almost entirely any reference to the person or memory of Raphaël Graven on the platform, which would be a disproportionate infringement of freedom of expression. These requests were therefore rejected.

Lastly, the court ruled on the requests for the removal of the content showing the scenes of violence and humiliation suffered by Raphaël Graven and "Coudoux" under the rules governing the liability of hosts enshrined in the DSA and the LCEN. It ordered Kick, on all the services or media that it published, hosted or operated, to immediately remove all content reproducing or rebroadcasting these images of violence and humiliation, as soon as it was made aware of them, subject to a provisional penalty of €10 000 per offence found, for a maximum period of twelve months, or to make it impossible to access them from French territory.

Tribunal judiciaire de Paris (procéd. accéléré au fond), 19 décembre 2025, n° 25/57054, L'Etat français c/ Kick streaming Pty Ltd

https://www.doctrine.fr/d/TJ/Paris/2025/UBDB33C6415341274D271

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Tribunal judiciaire de Paris (Paris judicial court) (accelerated procedure on the merits), 19 December 2025, no. 25/57054, France v Kick streaming Pty Ltd

https://www.doctrine.fr/d/TJ/Paris/2025/UBDB33C6415341274D271

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[FR] SMAD decree: introduction of a 20% diversity clause for animation, creative documentaries and live performances

Amélie Blocman
Légipresse

Pursuant to Articles 27 and 33-2 of Law No. 86-1067 of 30 September 1986 on freedom of communication, Decree 2025-1421 of 30 December 2025 amends Decree 2021-793 of 22 June 2021 on on-demand audiovisual media services (SMAD) in three ways.

Firstly, in order to strengthen production of the most vulnerable audiovisual genres and to combat the concentration of investment in a single genre of works (since the SMAD decree came into force, fiction has accounted for 89.8% of production contributions from platforms), the decree requires, after a three-year ramp-up period, that at least 20% of the contribution to audiovisual production be devoted to animation, creative documentaries, or recordings or recreations of live performances. For services with annual net sales in excess of €50 million, it also requires that 75% of this share be devoted to original works in each of these genres. Finally, for animated works, it limits the consideration of rights acquired for foreign territories, following the example of the system applicable to cinematographic works.

In so doing, the decree implements the proposals for strengthening the diversity obligation for audiovisual works put forward by representatives of the audiovisual sector and set out in the study published in November 2024 by the *Autorité de Régulation de la Communication Audiovisuelle et Numérique* (the French audiovisual regulator – ARCOM) and the *Centre National du Cinéma et de l'Image Animée* (National Centre for Cinema and the Moving Image – CNC).

These new obligations, applicable from 1 January 2026, will be incorporated into the agreements signed with ARCOM, and will apply to services established abroad by 1 July. For services that have signed inter-professional agreements, they will only come into force when they expire, or earlier if the parties so wish.

Décret n° 2025-1421 du 30 décembre 2025 modifiant le décret n° 2021-793 du 22 juin 2021 relatif aux services de médias audiovisuels à la demande, JO du 31 déc. 2025

https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000053228669

Decree no. 2025-1421 of 30 December 2025 amending Decree no. 2021-793 of 22 June 2021 on-demand audiovisual media services, Official Journal of 31 December 2025

https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000053228669

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UNITED KINGDOM

[GB] Ofcom fines AVS Group GBP 1 million over children's access to pornography and failure to supply information

Alexandros K. Antoniou
University of Essex

On 3 December 2025, the UK's communications regulator Ofcom fined AVS Group Ltd GBP 1 million for failing to deploy "highly effective" age assurance under section 12 of the Online Safety Act 2023 (OSA), and a further GBP 50 000 for failing to respond to a statutory information request, backed up with daily penalties if non-compliance persists. The decision covers a portfolio of adult sites and requires compliant age checks to stop children encountering pornographic content. It is the clearest signal yet that Ofcom has moved from programme oversight to active enforcement of the child-protection duty at pace.

The enforcement backdrop is that earlier, on 16 January 2025, Ofcom opened an enforcement programme under the Act to oversee compliance with age assurance duties relating to pornographic material. The initial focus was on services falling within Part 5 of the Act (namely, sites that publish or display their own pornographic content), reflecting section 81 requirements that took effect on 17 January 2025. On 25 July 2025, the programme was widened to Part 3 services that allow users to upload or generate pornographic content. Within days of that expansion, on 30 July 2025, Ofcom opened an investigation into the AVS Group under the expanded programme.

The investigation covered multiple AVS sites (including e.g. *pornzog.com*, *txxx.com* and associated ".tube" domains) and invoked section 12 of the OSA, which imposes a duty on providers of Part 3 services that allow pornographic content to ensure that children are prevented from encountering such content through the use of "highly effective" age assurance. On the day the investigation opened (30 July), Ofcom also issued AVS with a formal information request under section 100 of the Act, requiring information relevant to the inquiry.

By late August 2025, Ofcom announced that AVS had not responded to the information request and thus expanded the investigation to consider a separate potential failure: non-compliance with the duty to respond accurately to an information request under the Act. Following evidence gathering, Ofcom issued AVS with a provisional notice of contravention (section 130) in October 2025, setting out its provisional view that AVS had failed, and was failing, to comply with section 12, and that it had infringed section 102(8) of the OSA by failing to respond to Ofcom's statutory request within the specified time frame (AVS was given 20 working days to make representations before a final decision).

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The final step was taken on 3 December 2025, when Ofcom issued a confirmation decision against AVS (acting under section 132). The regulator determined that AVS had not complied with section 12 and that the failure was ongoing. Its reasoning focused on the absence of any age assurance measures on some services during the relevant period and, importantly, on the inadequacy of measures deployed elsewhere. In particular, AVS had rolled out a photo-upload check mechanism that did not include "liveness" detection (i.e. a check that confirms the image is captured from a live, present user rather than a photo, screenshot, video, or synthetic image). Ofcom considered that such a method was vulnerable to simple workarounds as it could be circumvented by children (e.g. by uploading a photograph of an adult) and was therefore incapable of meeting the statutory bar of the Act (of note, the relevant period identified was 25 July 2025 to at least 25 November 2025).

In consequence, Ofcom imposed a GBP 1 million penalty for the section 12 contravention (set in accordance with its penalty guidelines) and required AVS to implement highly effective age assurance across all remaining AVS websites lacking compliant measures. Additionally, Ofcom set a daily penalty rate of GBP 1 000 for any continuing non-compliance with section 12, signalling in essence: install robust age checks promptly or the meter runs. As regards the information-request, a further penalty of GBP 50 000 was imposed for the breach of section 102(8) by not responding to a statutory request for information within the required time. Ofcom also ordered AVS to disclose a complete list of the sites it operates, with a GBP 300 daily penalty until it complies.

In parallel, Ofcom has indicated that it continues to investigate the compliance of other services with age verification duties and that it will take action where appropriate. In particular, its age assurance enforcement continues to widen beyond the AVS case. On 25 November 2025, the regulator took the following steps: it issued a separate fine against Itai Tech Ltd (operator of the nudification site *Undress.cc*) for inadequate age checks and non-compliance with an information request; it issued provisional decisions against additional providers (8579 LLC and Kick Online Entertainment S.A.) for similar alleged failings; it opened new investigations covering other providers responsible for around 20 pornography sites; and it expanded certain probes to assess whether firms have properly answered statutory information requests. Taken together, supervision has now shifted to active, system-wide enforcement across both age verification duties and information-gathering obligations.

Investigation into AVS Group Ltd's compliance with the duty to prevent children from encountering pornographic content through the use of age assurance

https://www.ofcom.org.uk/online-safety/protecting-children/investigation-into-avs-group-ltds-compliance-with-the-duty-to-prevent-children-from-encountering-pornographic-content-through-the-use-of-age-assurance

Ofcom fines nudification site GBP 50 000 for failing to introduce age checks

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https://www.ofcom.org.uk/online-safety/protecting-children/ofcom-fines-nudification-site-50000-for-failing-to-introduce-age-checks

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[GB] The Property (Digital Assets etc) Act came into force

Julian Wilkins
Wordley Partnership

The Property (Digital Assets etc) Act 2025 received Royal Assent on 2 December 2025 and came into force on the same day. The background to the Act was described in IRIS 2025-1:1/9.

The Act states that digital assets are not prevented from being treated as a form of property merely because they are not easily categorised within existing legal categories of property, namely "things in possession", like a car or land and "things in action", such as stocks and shares.

This new legislation allows the courts to create rules that reflect the unique characteristics of digital assets such as non-fungible tokens (NFTs) or crypto currencies even within the framework of the normally incremental development of the English common law.

Section 1 of the Act states:

"*A thing (including a thing that is digital or electronic in nature) is not prevented from being the object of personal property rights merely because it is neither—(a) a thing in possession, nor (b) a thing in action.*"

The principle set out in the Act avoids a prescriptive route to take account of the fast-changing technology but also falls into line with the existing common law principles that the courts will categorise something as property, even if it cannot be identified within the usual forms of property.

Prior to the enactment of the Act, the English courts relied upon common law principles as to what digital assets may be determined as property.

The court decision in *National Provincial Bank v. Ainsworth (1965) 1AC 1175* determined several principles to help determine whether something can be classed as property in law. These characteristics include being capable of being identified by third parties, being capable of assumption or being transferred to third parties, something that can be subject to exclusive control and has the characteristic of being desirable or wanted (rivalrousness).

The Act endorses the courts' prior approach and it is anticipated that the legislation will confirm that owners of digital assets can possess enforceable property rights with meaningful legal remedies such as injunctions, claims for damages and prosecution for theft by a third party.

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National Provincial Bank v. Ainsworth (1965) 1AC 1175

https://www.bailii.org/uk/cases/UKHL/1965/1.html

The Property (Digital Assets etc) Act 2025

https://www.legislation.gov.uk/ukpga/2025/29

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GREECE

[GR] New law implementing EMFA rules and strengthening the public broadcaster

Alexandros Oikonomou
National Council for Radio and Television

A new law, Law 5253/2025 – related to the application of the European Media Freedom Act (EMFA – Regulation 2024/1083 of the European Parliament and of the Council of 11 April 2024) and to the public broadcaster ERT S.A. – was passed by the Greek Parliament on 20 November 2025.

As for the implementing provisions of the EMFA regulation, the new responsibility of the independent media regulator NCRT (National Council of Radio and Television) to publish an annual report on the allocation of state advertising, providing an overall picture of public spending and based on the published spending of each media outlet via its website (Article 25, paragraph 3 EMFA), is of great interest.

Other provisions ensure the independence of journalists in the performance of their duties, while all media outlets (including online ones) are required to publish their ownership details (direct or indirect owners and beneficial owners).

It is noted that the new law does not contain provisions on two essential issues within the remit of the NCRT: the creation of a national database for all media outlets (including printed newspapers and websites) (Article 6, paragraph 3 EMFA) and the assessment of media market concentrations with an impact on pluralism (Article 22 EMFA). The Greek Government announced that these issues will soon be regulated by law.

Regarding ERT, regulations are provided, *inter alia*, to improve the collectability of the contribution fee; meanwhile, a harmonised framework is being formed for ERT's corporate social responsibility, performance incentives are being provided to its staff and compliance with the latest laws on corporate governance of public limited companies is being attempted.

The provision stipulating that the competent minister should select the chair of the board of directors and the managing director of ERT from among the three most prominent candidates that have emerged from the procedure before another independent authority (Supreme Council for Civil Personnel Selection) sparked heated debates in parliament. According to opposition parties, it is doubtful whether the law is in accordance with the provisions of the EMFA, which stipulate that the relevant procedure is carried out by "mechanisms free from political influence by governments" (Article 5, paragraph 4).

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Finally, the law establishes the "Hellenic Media Council", an "independent self-regulatory mechanism", a National Strategy for Media Education and a National Action Plan for the Safety of Journalists.

Law 5253/2025, 25 November 2025

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HUNGARY

[HU] Safe mobile internet access for minors

Gábor Polyák
Mertek Media Monitor, Hungary

On 1 January 2026, Hungarian mobile operators *Magyar Telekom, One Magyarország* and *Yettel Magyarország* launched safe mobile internet access for minors. The new service, which is available free of charge to individual subscribers, prevents children from visiting Hungary's most popular pornographic websites on the mobile network.

In May 2025, the *Nemzeti Média- és Hírközlési Hatóság* (National Media and Infocommunications Authority, NMHH) issued Decree 7/2025 on detailed rules relating to the secure service provided for minors. It was empowered to do so by the 2024 amendment to Act C of 2003 on electronic communications. According to the decree, the NMHH president must compile a list of the 1 000 most frequently visited websites in Hungary that are specifically intended to display pornographic content, make it available to service providers in machine-readable form and include fully specified domain names. When providing mobile internet access services, service providers must block access to the listed websites to provide a safe service for underage users. Service providers must operate an information website for the secure service and ensure that the current list is downloaded and that the data it contains is appropriately configured on the Domain Name System servers they use to provide internet access services on each working day.

The service is available to all subscribers. At the request of individual subscribers, service providers must provide filtering free of charge as part of their basic service. The request does not constitute a contract amendment and does not affect the expiration of fixed-term subscriber contracts.

Providers will introduce the filtered internet service gradually: mobile internet providers from 1 January 2026, fixed internet access providers with 10 000 or more subscribers from 1 May 2026, and internet access providers based in Hungary with fewer than 10 000 subscribers from 1 January 2027. For wired services, subscribers can choose between filtered and unfiltered internet at a single point of access.

The NMHH's primary strategic goal is to support safe internet use by minors and to strengthen protection against harmful online content. To this end, it operates the "*Bűvösvölgy*" Media Literacy Education Centres and the Internet Hotline, an online legal aid service available to anyone who has been a victim of internet abuse.

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Regulation for the provision of filtered internet services

https://nmhh.hu/cikk/256577/Januartol_igenyelheto_a_mobilszolgaltatoknal_a_szurt_internetszolgaltatas

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MOLDOVA

[MD] Sound deviations sanctioned

Andrei Richter
Comenius University (Bratislava)

At its meeting on 12 December 2025, the Audiovisual Council (CA), the national media regulator of Moldova, approved a decision on sound violations in audiovisual media services.

Article 63(6) of the Audiovisual Media Services Code of the Republic of Moldova requires media service providers “to level the sound volume” between audiovisual programmes and commercial breaks therein. Monitoring of the sound levels of the Canal Regional, Cinema 1 and TV-Drochia audiovisual media services conducted in early November 2025 had found around 90 violations of this rule. The maximum sound deviations were -2.1, -1.8 and -19.9 LUFS (Loudness Units Full Scale) respectively. LUFS is a standard metric for measuring perceived audio loudness, accounting for how the human ear interprets different frequencies.

The CA decided to impose a fine of 3 000 Moldovan lei (€150) on the owners of each service provider. In accordance with Article 84 of the Audiovisual Media Services Code, the media service providers concerned are also obliged to broadcast the text of the sanction within 48 hours of adoption of the relevant decision, audibly and/or visually, at least three times during prime time, including once in their main audiovisual news programme, if applicable. If such minor violations are repeated three times within a year, the provider’s broadcasting licence may be suspended for up to a week, while five violations over the same period can lead to a suspension for up to two months.

This decision may be contested in an administrative dispute procedure at Chisinau City Court.

Codul serviciilor media audiovizuale al Republicii Moldova nr. 174/2018 din 08-11-2018

https://www.legis.md/cautare/getResults?doc_id=125226&lang=ro

Audiovisual Media Services Code of the Republic of Moldova No. 174/2018 of 8 November 2018

Consiliul Audiovizualului. Decizia nr. 246 din 12 decembrie 2025. “Cu privire la examinarea rezultatelor controlului efectuat în temeiul Deciziei

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Consiliului Audiovizualului nr. 226 din 13 noiembrie 2025”

Audiovisual Council decision no. 246 of 12 December 2025 on the examination of the results of the checks carried out pursuant to Audiovisual Council decision no. 226 of 13 November 2025

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NORWAY

[NO] Norwegian television provider, TV 2, fined for breaching sponsorship rules

Linda Andersen
Norwegian Media Authority

The Norwegian Media Authority (NMA) has imposed a fine of NOK 300 000 on the national television provider, TV 2, for breaches of the sponsorship rules during the television programme *Tour de France* for men, in 2025. The identification of sponsorships shown during the broadcasts were displayed for too long according to Norwegian law.

According to Article 10(1)(c) of the Audiovisual Media Services Directive (AVMSD), viewers shall be clearly informed of the existence of any sponsorship agreement. In Norwegian national law, there are additional rules on the maximum duration of such sponsorship identifications. Section 3-10 of the Broadcasting Regulation states that identification of an individual sponsor may last for a maximum of 15 seconds for each full hour of the programme. If a programme has four or more sponsors, the total sponsor identification must not exceed 60 seconds per hour.

The violations were uncovered in connection with planned monitoring of seven programmes from *Tour de France*, between 7 and 27 July 2025. All of the programmes that the NMA scrutinised contained sponsorship identifications that were in breach of the rules on maximum allowed duration of such sponsorship identifications. Each broadcast lasted several hours, and all the monitored broadcasts had four sponsors. The sponsors were shown on five occasions within the span of one hour, and the exposure of sponsors therefore exceeded the permitted sixty seconds per hour. In certain hours, the sponsors were shown for up to ninety seconds.

The NMA considered these findings to be a serious violation. The fact that the monitoring uncovered violations in all the broadcasts scrutinised means that there were several repeated and clear breaches over a short period of time. In these broadcasts, viewers were exposed to more commercial content than they should have been. One of the purposes of the rules on sponsorship identification on television is to make viewers aware that a programme is sponsored. This is meant to sharpen viewers' attentiveness to the editorial content of the programme. It is not supposed to be an arena for excessive exposure of sponsors. Furthermore, the NMA also emphasised the fact that the broadcasts had high viewer numbers.

In the event of a violation, the NMA can issue a sanction in the form of a formal warning or a fine. In this case, the NMA found that a warning was not

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sufficient and decided upon a fine of NOK 300 000. The NMA found that the number of clear violations and the large number of viewers argued in favour of a strict reaction. The decision emphasises that the NMA has taken into consideration, in TV 2's favour, the fact that the provider has implemented measures to prevent similar breaches of the broadcasting regulations from happening again.

Norwegian broadcaster TV 2 fined for breaching sponsorship rules

https://www.medietilsynet.no/nyheter/aktuelt/tv-2-far-gebyr-for-brot-pa-sponseregelverket/

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UKRAINE

[UA] Judgment on *Chernobyl* mini-series

Andrei Richter
Comenius University (Bratislava)

The Civil Court of Cassation, a chamber of the Supreme Court of Ukraine, considered an application to protect the right to use a name by removing all relevant references from the credits and individual scenes in *Chernobyl*, an acclaimed 2019 television mini-series that revolves around the 1986 nuclear plant disaster and the dramatic cleanup that followed. The lawsuit also included claims for compensation for moral harm, such as emotional distress.

The title of the series and the names of the people involved were redacted from the judgment, which meets the requirements of procedural provisions on the protection of personal data. Even so, the Ukrainian media disclosed that the plaintiff was Lyudmila Ignatenko, widow of firefighter Vasily Ignatenko, one the first responders to the fire at the power plant. Both are characters in *Chernobyl*, produced by HBO in the US, in which they were played by Jessie Buckley and Adam Nagaitis. The scenes in which they were depicted were inspired by the opening chapter of *Chernobyl Prayer*, a 1997 book by the Nobel prize-winning writer Svetlana Alexievich based, in particular, on interviews with Lyudmila Ignatenko, who agreed at the time to publish her name and that of her late husband.

The case reached the Supreme Court after lower-instance decisions had been appealed by both sides, i.e. HBO and Lyudmila Ignatenko.

Article 296(2) of the Civil Code of Ukraine only permits the use of a person's name as a character without their consent in works of a documentary nature. The Supreme Court noted in its judgment that such works are not defined in statutory law. However, in the lower-instance proceedings, HBO had neither objected to the mini-series being treated as fiction nor provided evidence of its non-fictional nature. The fictional nature of the series was also confirmed in the licence issued to TV company Studio 1+1 by the relevant public authority for its distribution in Ukraine. The Supreme Court also noted that, although the disputed series was based on real events, it was not an accurate account of real-life, historical events. Since it was partly fictional, scenes in which the plaintiff and her husband were depicted included inaccuracies and falsehoods to which they had not consented. The Supreme Court therefore dismissed the appeal by HBO.

Assessing the circumstances of the case in the context of Lyudmila Ignatenko's appeal, the Supreme Court noted that (i) a violation of the right to a name had already occurred; (ii) the series had been widely distributed and watched by millions of viewers since the original lawsuit; and (iii) the removal or redacting of individual scenes could not properly restore the violated right, was not

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proportional to the violation and would undermine the copyright of an independent object with public significance.

At the same time, the Supreme Court acknowledged the emotional distress inflicted by the inclusion of the names of the plaintiff and her late husband in the series. Taking into account the principles of reasonableness and justice, it awarded the plaintiff compensation (to be paid by HBO) of 500 000 Ukrainian hryvnia (around €10 000). The ruling is final and not subject to appeal.

Верховний Суд. Постанова. 27 листопада 2025 року, справа № 752/7647/20

https://reyestr.court.gov.ua/Review/132475979

Supreme Court judgment of 27 November 2025, case no. 752/7647/20

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