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EDITORIAL

Dear reader,

You may already have heard about the US House Judiciary Committee releasing an interim staff report entitled "The Foreign Censorship Threat, Part II: Europe's Decade-Long Campaign to Censor the Global Internet and How it Harms American Speech in the United States." According to this report, the European Commission "successfully pressured major social media platforms to change their global content moderation rules, directly harming American online speech in the United States". No more, no less.

Regardless of one's personal opinion on the matter, it is clear that the EU displays both consistency and persistence in the application of its policies. As the latest example of this, the European Commission recently designated the WhatsApp Channels service as a new Very Large Online Platform under the Digital Services Act . Just like its peers Facebook and Instagram, this Meta-provided service will be required to duly assess and mitigate any systemic risks stemming from its services, such as violations of fundamental human rights and freedom of expression, electoral manipulation, the dissemination of illegal content and privacy concerns. Hardly censorship, one could argue.

National regulators in Europe are also stepping up to protect users on online platforms. In France, the judiciary has intervened in relation to the sale of child-like sex dolls on Shein. Some of the photographs published on the platform were classified as pornographic content, prompting the court to rule on matters of age verification and protection of minors. Meanwhile, the United Kingdom's media regulator, Ofcom, has clarified where and how age gates must be implemented on pornography services under the Online Safety Act.

On a larger scale, European regulators appear determined to ensure that all actors within their jurisdiction abide by the rules. This was recently confirmed by the French Conseil d'Etat's decision to uphold another €50 000 fine imposed on the C8 channel.

In the future, a possible revision of the AVMS Directive may reshape the rules and redefine the level playing field between the various (old and new) actors in the game. Some countries are already moving in that direction. Even beyond the EU, for example, North Macedonia has recently enforced new legal requirements for the registration of influencers.

While we wait to see what the evaluation of the Directive will bring, there is plenty to keep us (and you) busy. I would like to use this occasion to thank you all for your loyal and continued commitment over the years. At a time when the erosion of trust in the media is cause for concern, it is your support that has allowed us to cross a significant milestone, as this edition of the Newsletter allows us to pass 10 000 articles!

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Enjoy the read!

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: Grand Chamber consolidates principles on freedom of expression of judges on internet and social media

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

In its Grand Chamber judgment, *Danileţ v. Romania*, delivered on 15 December 2025, the European Court of Human Rights took the opportunity to "confirm and consolidate the principles established in its case-law with regard to the freedom of expression of judges and prosecutors on the internet". It also took the opportunity to provide "certain clarifications and to define a set of criteria that take into account the limits imposed on this freedom by the duty of discretion inherent in their office".

The factual background to the case concerned two posts by the applicant, a judge at Cluj County Court, on his Facebook page in January 2019. The applicant was a well-known figure, nationally, due to his previous judicial, political, advisory and civil society positions and his general engagement as a (legal) commentator in public debate. He had around 50 000 followers on Facebook at the relevant time and the posts generated media attention and a large number of comments.

In the first post, the applicant expressed his personal views on an institutional dispute between two public authorities (the Ministry of Defence and the President's Office) over a political matter that could have come before the courts at a later stage. He used ambiguous language, which the Romanian High Court interpreted as an allusion to the possibility of the army being deployed on the streets (against the will of the people) in order to preserve constitutional democracy. The applicant asserted that he only intended to ask readers to imagine such a scenario.

The second post included a hyperlink to a press article on a news website, which contained an interview with a prosecutor "about how the public prosecutor's office was handling criminal cases and the difficulties that prosecutors were having in dealing with the cases assigned to them". The post also included a comment by the applicant, praising the prosecutor for having had the courage to speak out on those matters. The comment was couched in very controversial language.

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The applicant was subjected to disciplinary proceedings on account of the two posts: the Judicial Inspection Board initiated the case of its own motion and the proceedings were subsequently taken up by the Legal Service Commission's Disciplinary Board for Judges. The Disciplinary Board found that the applicant had undermined "the dignity of his office" and impaired "the impartiality and image of the justice system". Even though he had expressed his views in an individual capacity, this "did not discharge him from disciplinary liability, given his duty of discretion as a judge". The applicant unsuccessfully appealed this finding, which included a financial sanction, to the High Court.

In its consideration of the case, the Grand Chamber of the European Court of Human Rights was very clear that the facts of the case provided it with a suitable opportunity to (re-)examine its existing case law and principles concerning the scope and limits of judges' and prosecutors' right to freedom of expression online. It framed the case accordingly.

It began by succinctly summarising its general principles on "the right to freedom of expression in general", "freedom of expression on the internet and social media", and "freedom of expression of judges". Against the backdrop of these three sets of principles, it identified key distinctive features of the present case that merited closer attention, including the fact that the first message concerned a personal opinion on a matter of public interest that was not directly related to the functioning of the justice system, and that the sanction did not arise from "public remarks made or positions adopted outside publicly accessible social-media fora".

Building on the three sets of principles, the Grand Chamber developed a number of criteria to be applied in respect of "the various manifestations of the freedom of expression of judges and prosecutors that may be found on the internet and social media, such as Facebook posts and interactions with the posts of other social-media users, including remarks, photos, videos and even mere 'likes'". The aim of the criteria – among which there is no hierarchy or fixed order in which they should be applied – is to provide guidance to national courts when weighing up the competing rights and interests involved. The criteria are:

i. Content and form of remarks or other manifestations of freedom of expression of judges and prosecutors on social media;

ii. Context of disputed remarks and capacity in which they were made;

iii. Consequences of the disputed remarks;

iv. Severity of the sanction;

v. Whether procedural safeguards were afforded.

The Court then proceeded to apply these newly formulated criteria to each of the two messages separately. In respect of the first message, it underlined the importance for judges or prosecutors to avoid using unclear language on social media, as such lack of clarity may prove problematic when multiple

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interpretations are possible, especially if those possible interpretations include (even implicitly or indirectly) incitement to hatred or violence. The Court found that, notwithstanding the rhetorical form used, there was no evidence to support the assertion that the applicant had sought to incite violence. The Court saw the remarks as a value judgment concerning a threat to constitutional democracy if public institutions were to fall under political control.

As for the second message, which addressed legislative reforms of the justice system, the Court took issue with the national judicial authorities' lack of explanation as to how the very controversial phrase used by the applicant "significantly overstepped the limits of propriety inherent in the office" and thus merited disciplinary sanctions.

The Court considered that "the applicant's remarks in the two messages posted on his Facebook page were not such as to upset the requisite reasonable balance between, on the one hand, the degree to which the applicant, as a judge, could be involved in society in order to defend the constitutional order and State institutions and, on the other, the need for him to be and to be seen as independent and impartial in the discharge of his duties". The Court considered both messages to be contributions to debates on matters of public interest. It found that there was nothing in the reasons given by the national authorities for restricting the applicant's freedom of expression "to indicate convincingly how his remarks had allegedly disrupted the proper functioning of the domestic justice system and impaired the dignity and honour of judicial office or the public confidence that office should inspire". In the absence of "relevant and sufficient" reasons, the interference did not meet a "pressing social need", which led the Court to find a violation of Article 10.

It should be noted that this was a majority decision by ten judges; seven judges penned a joint dissenting opinion in which they explained why, in their view, the applicant's freedom of expression had not been violated. The dissenting judges nevertheless explicitly endorsed the criteria developed by the Court for assessing the freedom of expression of judges and prosecutors on the internet and social media. Their dissent concerned how the criteria had been applied to the facts of the present case.

Danileţ v. Romania (GC), no. 16915/21, 15 December 2025 ECLI:CE:ECHR:2025:1215JUD001691521

https://hudoc.echr.coe.int/eng?i=001-231394

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COE: EUROPEAN COURT OF HUMAN RIGHTS

European Court of Human Rights: privacy at shows and concerts – implications for video recording and broadcasting

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In *SIC – Sociedade Independente de Comunicação, S.A. v. Portugal* (No. 2), a judgment of 13 January 2026, the European Court of Human Rights (Fourth Section) examined the right to privacy of audience members at a comedy show whose recorded images and voices were subsequently broadcast on television and made available online by a commercial company without their express consent. The company, which held the rights to the recording of the show, relied upon its right to freedom of expression. The Court held, unanimously, that the fine imposed on the company by the domestic courts did not amount to a violation of the company's rights under Article 10 of the European Convention on Human Rights (ECHR).

In 2012, M.G. and M.C. attended a stand-up comedy show in a theatre in Lisbon. There was a notice at the entrance to the auditorium stating that a video recording would be made of the show. The comedian, J.C., also announced at the start of the show that it would be recorded. Halfway through the show, M.G. and M.C. became disturbed at some of the comments made by J.C. As they left their seats and made their way to leave the auditorium, a heated altercation took place between them and J.C.

A few days after the show, the applicant company acquired television broadcasting rights for the show. The applicant company owns several Portuguese television channels, including SIC Radical – a channel with a somewhat irreverent tone targeting a youthful audience. The show was subsequently included in a six-episode documentary about J.C. that was broadcast on *SIC Radical*. Parts of the altercation featured in episodes 1 and 4 and in a promotional video for the series. Episode 1 was broadcast 12 times and episode 4, 13 times. The promotional video was broadcast several times a day for at least 45 days. The content was also placed on *SIC Radical*'s website and on J.C.'s YouTube channel.

M.G. and M.C. requested the applicant company to remove their images from the broadcast. When this request was rejected, they initiated legal proceedings, claiming their images and voices had been broadcast without their consent. The domestic courts found in favour of the applicant company at lower instance and on appeal. The Supreme Court overturned the judgment of the Lisbon Court of Appeal and found in favour of M.G. and M.C. and ordered the applicant company to pay them EUR 40 000 in damages.

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In its assessment of the case, the European Court of Human Rights noted its well established general principles that are applicable when the right to freedom of expression under Article 10 is balanced against the right to private life under Article 8. As set out in the *Axel Springer* and *Von Hannover (No. 2)* judgments (IRIS 2012-3:1/1), the relevant criteria are:

"(a) the contribution to a debate of general interest;

(b) how well known the person concerned is and what the subject of the report is;

(c) the conduct of the person concerned prior to publication of the article;

(d) how the information was obtained and how accurate it was;

(e) the content, form and consequences of the publication; and

(f) the severity of the sanction imposed".

The Court also noted the relevance of the medium used, as different media such as audiovisual media and the Internet, can have different types of impact. Moreover, audiovisual media service providers have the duty, when it comes to the transmission of a person's image, to "take into account, in so far as possible, the impact of the information, pictures or video recordings to be published prior to their dissemination".

The Court pointed to other relevant considerations concerning the right to private life, as guaranteed by Article 8 ECHR, for instance that a "person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers". The right to protect one's image therefore "presupposes the right to control the use of that image", which covers "an opportunity to veto publication of the image" and the ability "to object to the recording, conservation and reproduction of the image".

The Court noted that the national courts had not weighed up the conflicting interests at play in the case, but "focused exclusively on the legal question of consent". In its own examination of the wider interests, the Court referred to the applicant company's undisputed assertion that M.G. and M.C. are private individuals. Their mere attendance at the show did not indicate that they sought exposure or publicity. Notwithstanding,

"*the written and verbal notices and the presence of cameras during the show [...], the conduct of M.G. and M.C. did not clearly or unequivocally demonstrate their tacit consent to the recording and prominent use of their images and voices during their heated discussion with the comedian for the broadcast of the documentary series about the career of the comedian J.C. on the SIC Radical channel and its commercial promotion.*"

Nor could they have reasonably assumed that their images and voices would be edited and taken out of context for commercial purposes. Their request to have

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their images and voices removed from the relevant content "constitutes further evidence of the absence of clear and unequivocal consent".

Furthermore, the Court found that the applicant company:

"*failed to take steps to minimise any adverse effects by not seeking the explicit consent of M.G. or M.C. and by not blurring their faces or distorting their voices […], thus creating a feeling of being ridiculed and increased public exposure*".

It considered the nature and severity of the sanction not to be excessive in light of the overall circumstances. It accordingly held, unanimously, that the applicant company's right to freedom of expression under Article 10 had not been violated.

SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (No. 2), No. 2746/21, 13 January 2026 ECLI:CE:ECHR:2026:0113JUD000274621

https://hudoc.echr.coe.int/eng?i=001-247832

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EUROPEAN UNION

EU: EUROPEAN COMMISSION

European Commission designates Whatsapp as a VLOP under the DSA

Amélie Lacourt
European Audiovisual Observatory

Under Article 33 of the Digital Services Act (DSA), online platforms with an average of at least 45 million active monthly recipients in the EU are classified as Very Large Online Platforms (VLOPs) and must comply with the DSA's strictest rules.

The European Commission now supervises 21 designated VLOPs and Very Large Online Search Engines (VLOSEs). On 26 January, it officially designated WhatsApp as one of them. The platform's "Channels" feature indeed allows users to share information, updates, and announcements with a large audience of WhatsApp users, thereby reaching the threshold set by the DSA. However, the Commission clarified that WhatsApp's private messaging service, which enables users to send text messages, voice notes, photos, videos, and documents, as well as to make voice and video calls, is explicitly excluded from the scope of the DSA.

As a VLOP, WhatsApp's Channels will, among other things, be required to duly assess and mitigate any systemic risks, such as violations of fundamental human rights and freedom of expression, electoral manipulation, the dissemination of illegal content, and privacy concerns, stemming from its services.

Once a platform is designated as a VLOP or a search engine as a VLOSE, the designated online service has four months to comply with the DSA. Meta, the provider of WhatsApp, therefore has until mid-May 2026 to comply with the obligations of the EU Regulation. Compliance will be supervised by the European Commission and the Irish media regulatory authority and Digital Services Coordinator (*Coimisiún na Meán*).

Commission designates Whatsapp as Very Large Online Platform under the Digital Services Act

https://digital-strategy.ec.europa.eu/en/news/commission-designates-whatsapp-very-large-online-platform-under-digital-services-act

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EU: EUROPEAN COMMISSION

European Commission investigates Grok's DSA compliance

Paola Bellissens
European Audiovisual Observatory

On 26 January, the European Commission opened an investigation against the X platform, specifically targeting Grok, under the Digital Services Act (DSA).

Grok is an AI tool developed by X. It generates text and images to provide context for various publications and has recently been used extensively to produce nude images of women and children.

Since X and Grok are subject to the DSA, the Commission opened an investigation into the platform. Under Articles 34 and 35 of the DSA, X is obliged to assess and mitigate the systemic and potential risks associated with its services. However, these risks have now been identified and are exposing users to significant harm. The Commission is therefore examining whether X is carefully assessing and mitigating these risks. In addition, X will be required to produce and submit to the Commission an ad hoc risk assessment report on Grok's functionalities.

At the same time as opening this new investigation, the Commission extended another that had been opened in December 2023. Targeting X and its recommendation systems, this investigation also aims to determine whether X has correctly assessed and mitigated the systemic risks defined in the DSA. It will now also focus on the impact of Grok's recommendation system.

In future, the Commission will ensure that it gathers all evidence and may impose certain measures in the absence of a significant change to the platform. X is nevertheless invited to remedy the shortcomings identified and, if it does so, the Commission could accept any undertakings that it submits.

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EU: EUROPEAN COMMISSION

European Commission opens infringement proceedings against Slovenia for failing to apply the InfoSoc and CRM Directives

Eric Munch
European Audiovisual Observatory

On 30 January, the European Commission decided to open infringement proceedings by sending a letter of formal notice to Slovenia (INFR(2025)4023) for failing to correctly apply the Directive on the harmonisation of certain aspects of copyright and related rights in the Information Society (Directive 2001/29/EC – InfoSoc Directive) and the Collective Rights Management Directive (Directive 2014/26/EU – CRM Directive).

Slovenia's mandatory collective management scheme for authors' public communication rights was considered by the Commission to violate both the InfoSoc and CRM Directives. The Commission considers that this goes against EU copyright law, which provides authors with a choice to exercise their rights individually or to entrust or transfer the management of all or part of them to a collective management organisation or to independent management entities, prompting the opening of the infringement procedure.

In its press release, the Commission adds that this "leads to a deprivation of author's exclusive rights and conflicts with the freedom of rightsholders to withdraw their rights from collective management, guaranteed by EU law. The mandatory collective management scheme provided under Slovenian law constitutes a limitation to the rights defined in the Directives."

Slovenia has two months to reply to the arguments raised by the Commission. In the absence of a satisfactory response, the Commission may decide to send a reasoned opinion to Slovenia.

Commission calls on Slovenia to comply with EU copyright rules

https://digital-strategy.ec.europa.eu/en/news/commission-calls-slovenia-comply-eu-copyright-rules

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EU: EUROPEAN COMMISSION

European Commission report on Creative Europe Programme

Amélie Lacourt
European Audiovisual Observatory

Creative Europe, the European Union's programme dedicated to supporting the cultural, creative and audiovisual sectors, has achieved a full decade of activity. On 17 December, the European Commission published a report presenting the results of the evaluation of the Creative Europe 2014-2020 Programme and the mid-term evaluation of the Creative Europe 2021-2027 Programme, highlighting both achievements and challenges.

Funding is divided into three strands to support different needs: media (audiovisual and video games), culture (all other cultural and creative sectors) and cross-sectoral (including news media).

The Commission reports that the media strand has successfully contributed to safeguarding cultural diversity and strengthening competitiveness. The evaluation revealed that films and series supported by it could be viewed, on average, in 9.5 more EU countries on TV, 6.6 more in cinemas and 3.2 more on video-on-demand than comparable non-supported works.

The media strand has also driven collaboration measures to foster cultural diversity. The share of supported works involving collaborations between low-capacity and high-capacity countries increased from less than 5% between 2014 and 2020 to around 30% between 2021 and 2023. Support for works in lesser used languages also increased from 25% to 32% over the same period. While observing progress, the Commission still notes that support is still concentrated on a limited number of beneficiary countries.

The Commission also generally observes that, while the media supporthas helped shape a European ecosystem and complement national policies, it cannot in itself counter powerful market forces which are transforming the sector arising from changing consumer behaviour and technological advances.

The report therefore stresses that further efforts are needed to attract wider cross-border audiences on all platforms, in particular younger generations. Due to the innovative and dynamic nature of media markets, it will be essential to continue monitoring trends to steer the media strand so that it keeps pace with developments. With this in mind, the Commission further highlights the growing demand for video game support, recalling the importance of pursuing reflection on how best to strengthen it in the future.

In the context of the Culture strand of the programme, the Commission observes that countries with strongly established cultural and creative sectors and/or which

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serve as regional hubs (such as France, Italy, Germany and Belgium) tend to receive a higher amount of funding. While some countries such as Croatia, Slovenia and Serbia have started playing a more prominent role, the Commission recognises that some efforts are still needed to reach out to countries that are not sufficiently engaged with Creative Europe. The Commission further notes that risks linked to new needs have emerged, such as attacks on artistic freedom or the rise of artificial intelligence, and insists on the need to better respond to them.

It should be noted that, in the cross-sectoral strand, support for news media was launched in 2021. While the Commission mentions the funding of high-quality projects addressing key structural and technological changes and promoting media independence and pluralism as well as media literacy, it notes that only a few member states devote significant financial resources to supporting the safety of journalists or resilience and innovation in media outlets. It further stresses that support will be crucial as challenges across the EU continue to grow in areas such as media freedom and pluralism, media viability and disinformation.

These observations will support the impact assessment of AgoraEU, the successor to the Creative Europe programme proposed by the European Commission for the 2028-34 EU budget.

COM(2025) 768 - Report - A Decade of Creative Europe

https://ec.europa.eu/newsroom/dae/redirection/document/123094

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EU: EUROPEAN PARLIAMENT

Adoption of a resolution by the European Parliament on the attempted takeover of the Lithuanian public broadcaster LRT

Eric Munch
European Audiovisual Observatory

On 22 January 2026, the European Parliament adopted a resolution on the attempted takeover of the Lithuanian public broadcaster LRT and the threat it posed to democracy in Lithuania. It was adopted by 385 votes to 165 (with 35 abstentions).

After noting that it recognises the essential role of national public service media providers in safeguarding a pluralistic and resilient democracy (by upholding and promoting the values enshrined in Article 2, Treaty on European Union - TEU) and countering disinformation propaganda and other forms of manipulation, the Parliament condemns all attempts to undermine the independence of LRT, including legislative and administrative measures and political pressure aimed at acquiring political control over it. The important role of the public service broadcaster in preserving media pluralism, as recognised in Protocol (No. 29) of the Treaties, is also noted.

The Parliament considers that the freezing and reduction of LRT's funding, in the absence of objective economic necessity, constitutes political pressure incompatible with constitutional guarantees and Article 5(3) of the European Media Freedom Act (EMFA). It also considers that the proposed amendments to lower the safeguards for the early dismissal of LRT’s director general risk enabling arbitrary political interference and are incompatible with both constitutional guarantees and EU standards for public service media independence, including Article 5(2) EMFA.

Furthermore, the Parliament strongly condemns any form of *ad personam* legislation, and recalls that laws designed to target specific individuals because of the independent performance of their professional activities are incompatible with the principles of pluralistic democracy and the rule of law. It notes that the use of accelerated legislative procedure for those amendments, lacking any objective and constitutionally justified grounds and meaningful participation of key stakeholders and civil society, falls short of the requirements of a transparent, accountable, inclusive and democratic lawmaking procedure.

It urges the Lithuanian parliament (the *Seimas*), to reject the pending amendments, which notably include lowering the threshold for dismissing the LRT director general and removing the requirement that the dismissal be based on objective consideration of public interest. It also calls on the Lithuanian

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parliament and government to minimise political influence in the formation of the LRT Council, including by reducing the number of seats allocated to the appointees of political bodies and by establishing adequate professional requirements for the council members. The parliament also urges them to repeal already adopted – and refrain from adopting – legislative measures and budgetary frameworks undermining the independence of LRT, ensuring consistency with the requirements of the EMFA's Article 5.

It also requests that the European Commission monitor any developments with regard to media freedom and public service media independence in Lithuania, to assess compliance with the EMFA and the principle of the rule of law.

European Parliament resolution of 22 January 2026 on the attempted takeover of Lithuania's public broadcaster and the threat to democracy in Lithuania

https://oeil.europarl.europa.eu/oeil/bg/procedure-file?reference=2026/2568(RSP)

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NATIONAL

ARMENIA

[AM] Broadcaster fined for repeated violation of rules on protection of minors

Anna Hovhanisyan
Commission on TV and Radio of Armenia

On 23 January 2026, the Commission on Television and Radio of the Republic of Armenia (CTR) adopted Decision No. 12-A imposing an administrative fine on Armenian Second Television Channel LLC following the identification of a repeated breach of broadcasting rules designed to protect minors.

The case originated from monitoring carried out by the CTR's Monitoring and Supervision Department on 23 December 2025 in respect of the broadcaster's programme output of 21 December 2025. The daytime broadcast of the talk show *Hayeli Club*, which had aired between approximately 2:45 and 3:20 p.m., had included repeated use of obscene and vulgar language.

Under Article 9(3) of the Law of the Republic of Armenia on Audiovisual Media, programmes that may negatively affect the health, mental or physical development, or upbringing of minors may only be broadcast between midnight and 6:00 a.m. CTR Decision No. 73-N of 28 June 2024 further clarifies that audiovisual programmes containing vulgar or profane language fall within the category of content potentially harmful to minors and therefore subject to time-of-day restrictions.

Based on the monitoring results, an administrative procedure was initiated on 24 December 2025. The broadcaster was duly notified and invited to submit explanations, but did not provide comments within the statutory period.

In its assessment, the CTR concluded that the programme had contained vulgar and profane language under the applicable criteria and had therefore breached restrictions intended to safeguard minors. The CTR reiterated that audiovisual media service providers bore editorial responsibility for the content of their programmes and must ensure compliance with statutory safeguards that protect children.

The CTR further noted that the broadcaster had already been sanctioned in December 2025 for a similar infringement. As the present case constituted a repeated violation within one year, Article 57(31) of the Audiovisual Media Law required a penalty amounting to three times the previously imposed fine.

Accordingly, the CTR imposed a fine of AMD 1 200 000 on the broadcaster.

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The decision illustrates the Armenian regulator's continued focus on enforcing legal safeguards protecting minors from potentially harmful audiovisual content, while maintaining broadcasters' editorial freedom within the limits established by law.

Décision n° 12-A du 23 janvier 2026 « Concernant l'imposition d'une sanction administrative à la société SP » Concernant l'imposition d'une sanction administrative à la société 'Haykakan Erkur TV' de la Commission de la télévision et de la radio du 23 janvier 2026, n° 12-A

Decision No. 12-A, 23 January 2026 imposing an administrative penalty on the company 'Armenian Second Channel' LLC

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BELGIUM

[BE] New classification system for films shown in cinemas in Belgium

Olivier Hermanns
Conseil Supérieur de l'Audiovisuel Belge

The Belgian federated entities recently signed a new cooperation agreement designed to extend the "*GoedGezien*" (in French "*BienVu*") film classification system to all films distributed in Belgian cinemas. The agreement harmonises the implementation of film classification throughout the country and regulates the relevant administrative and financial aspects.

The "*GoedGezien*" system classifies content according to the age of the viewers (all audiences, 6, 10, 12, 16 and 18) and the nature of the content (violence, anxiety, sex, use of addictive substances, coarse language and discrimination). The classifications are represented by a series of pictograms.

Developed by the Flemish-speaking Community and first implemented in 2024, this system previously applied only to Flemish television programmes under the Flemish Government Decree of 19 January 2024 on informing viewers about programmes likely to harm the physical, mental or moral development of minors. Under the Decree of the Government of the French-speaking Community of 5 December 2025 on the protection of minors against television programmes likely to harm their physical, mental or moral development, which will come into force on 1 July 2026, it was recently extended to television programmes made by publishers of audiovisual media services under the jurisdiction of the French-speaking Community. Television programmes are classified by television service providers, subject to monitoring by the respective broadcasting regulatory authority.

From now on, the basic principles of this system and the various pictograms will therefore also apply to films shown in cinemas. A film will be classified by its distributor (or, failing that, by its producer or – as a last resort – by the cinema operator). Classification will nevertheless be monitored by a "secretariat for film classification" set up by the Flemish-speaking Community. This secretariat can also deal with complaints submitted to it by any interested party. Complaints may relate to a classification that is deemed to be incorrect, missing or incorrectly communicated. A "steering committee" may be asked to deal with a complaint if mediation by the secretariat has failed. In principle, the secretariat acts by mediation; however, it is empowered to impose penalties, including fines, on those responsible for the classifications. The steering committee, on the other hand, has no such prerogative.

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An exception is made for the German-speaking Community. Nearly 80 000 people, or less than 1% of the Belgian population, live in this community, where local cinemas are characterised by specific programming influenced by their German neighbours. The cooperation agreement therefore provides for the use of the German classification system for films whose main language is German and for films dubbed in German that are distributed in a cinema located in the German-speaking Community. In other words, German law (Article 14 of the *Jugendschutzgesetz* [Law on the protection of young people]) applies here. However, in the case of Belgian productions or co-productions whose main language is German or which are dubbed in German, the general rules apply. In addition, the steering committee may still require the distributor to classify the film in question according to the Belgian classification system (Article 11(5) of the cooperation agreement).

The cooperation agreement emphasises that age and content ratings are only recommendations.

In 2019, the same parties had agreed to adopt the Dutch "*Kijkwijzer*" system (translated into French as "*Cinecheck*") as the classification system for films shown in cinemas (cooperation agreement of 15 February 2019 concluded between the French-speaking Community, the Flemish-speaking Community, the German-speaking Community and the Brussels-Capital Joint Community Commission on the classification of films shown in Belgian cinemas). This system was provided by the Dutch Institute for the Classification of Audiovisual Media (*Nederlandse Instituut voor de Classificatie van Audiovisuele Media* – NICAM). The new system should make it possible to no longer depend on a foreign entity for this purpose.

The new cooperation agreement, which will will replace the 2019 agreement, will come into force once it has been adopted by the respective parliaments.

Accord de coopération entre la Communauté française, la Communauté flamande, la Communauté germanophone et la Commission communautaire commune de Bruxelles- Capitale relatif à la classification des films diffusés dans les salles de cinéma belges

https://shorturl.at/ITYY4

Cooperation agreement between the French-speaking Community, the Flemish-speaking Community, the German-speaking Community and the Brussels-Capital Joint Community Commission on the classification of films shown in Belgian cinemas

Arrêté du Gouvernement flamand du 19 janvier 2024 relatif à l'information des téléspectateurs à propos des programmes susceptibles de nuire à l'épanouissement physique, mental ou moral des mineurs, M. B. 23 février 2024, p. 26723

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https://www.ejustice.just.fgov.be/eli/arrete/2024/01/19/2024001522/justel

Flemish Government Decree of 19 January 2024 on informing viewers about programmes likely to harm the physical, mental or moral development of minors, Official Gazette of 23 February 2024, p. 26723.

Arrêté du Gouvernement de la Communauté française du 5 décembre 2025 relatif à la protection des mineurs contre les programmes télévisuels susceptibles de nuire à leur épanouissement physique, mental ou moral, M. B. 18 décembre 2025

https://www.ejustice.just.fgov.be/eli/arrete/2025/12/05/2025009484/justel

Decree of the Government of the French-speaking Community of 5 December 2025 on the protection of minors against television programmes likely to harm their physical, mental or moral development, Official Gazette of 18 December 2025.

Accord de coopération du 15 février 2019 conclu entre la Communauté française, la Communauté flamande, la Communauté germanophone et la Commission communautaire commune de Bruxelles-Capitale relatif à la classification des films diffusés dans les salles de cinéma belges, M. B. 4 juin 2019, p. 54937

https://www.ejustice.just.fgov.be/cgi_loi/article.pl?language=fr&sum_date=&lg_txt=f&cn_search=2019021523

Cooperation agreement of 15 February 2019 between the French-speaking Community, the Flemish-speaking Community, the German-speaking Community and the Brussels-Capital Joint Community Commission on the classification of films shown in Belgian cinemas, Official Gazette of 4 June 2019, p. 54937.

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SWITZERLAND

[CH] Swiss Government adopts report on Switzerland's digital sovereignty

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On 26 November 2025, the Federal Council adopted a report on Switzerland's digital sovereignty. For the first time, the Federal Council sets out its understanding of the concept of digital sovereignty and frames the concept in terms of security policy and international law. This provides an important basis for the political debate.

The report is based on a request from the Swiss Parliament. Specifically, postulate 22.4411 from Councillor of States Z'graggen called for the government to comment on: (1) how it defines the term "digital sovereignty"; (2) how the status of Switzerland's digital sovereignty is assessed and (3) what measures are proposed to strengthen it.

The report follows this structure. With regard to the question of how digital sovereignty is to be defined, it is noted that there are different understandings both in Switzerland and internationally. What they have in common is that the claim of a particular actor (e.g. state, company or citizen) to independence and self-determination in the digital space takes centre stage. In some cases, far-reaching demands are formulated for the state and its role in economic and social issues. Guided by the constitutional principles of subsidiarity, proportionality and individual liability, the Swiss Government has opted for the following narrow and state-related definition of digital sovereignty: "Digital sovereignty means having the necessary control and capacity to act as a state in the digital space in order to ensure the fulfilment of its state responsibilities."

The clear and concise definition is based on the principle of sovereignty under international law, in which it is oriented towards the state or the fulfilment of state functions. It is also crucial that the providers of state functions have the necessary degree of control that is required for the state function in question. This is because only those who have sufficient control can be capable of acting to the desired extent. This approach makes it possible to operationalise the principle of sovereignty under international law for a large number of very different state functions.

Based on this definition, a desired vision is derived, which is used to analyse the status of Switzerland's digital sovereignty. The analysis shows that the Swiss state has numerous structures and measures at federal level that already contribute to safeguarding and strengthening Switzerland's digital sovereignty. In particular, an overview of the digital resources used and their relevance is provided by the

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Federal Government's existing risk management system and information security legislation. Open source applications are already being specifically promoted and there is a cloud strategy that relies on a diverse provider landscape and provides for content of high and very high classification levels to be stored in federal data centres.

However, the report states that the assessment of risks has become significantly more complex. For example, the increasing willingness of states to use access to the digital technologies under their control as a means of exerting pressure poses challenges for highly digitalised states such as Switzerland. These accentuated geopolitical risks have not yet been sufficiently taken into account in risk management and information security processes.

The need for action in analysing and evaluating security and foreign policy developments for digital resources is being met by the establishment of an interdepartmental and interdisciplinary committee. It is intended to further update the overall view of the work on digital sovereignty set out in the report and ensure the coordination of individual measures. Against the backdrop of the dynamically developing geopolitical situation, measures that can further strengthen the availability and confidentiality of digital resources in the Federal Administration will also be examined and proposed. In addition to technical measures, this also includes instruments under international law to ensure the inviolability and protection of official data from access by other states.

Digitale Souveränität der Schweiz, Bericht des Bundesrates in Erfüllung des Postulats 22.4411 Z'graggen, 14.12.2022

https://cms.news.admin.ch/dam/en/der-schweizerische-bundesrat/nyg2NmYUzuqm/Beilage+01+Bericht+in+Erf%C3%BCllung+des+Postulats+22.4411+DE+zu+BRA+EDA.pdf

Switzerland's digital sovereignty, Federal Council report in fulfilment of postulate 22.4411 Z'graggen, 14.12.2022

Postulats 22.4411 Z'graggen, 14.12.2022

https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20224411

Postulate 22.4411 Z'graggen, 14.12.2022

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GERMANY

[DE] BGH confirms admissibility of naming a previously convicted former football manager in current reporting

Sandra Schmitz-Berndt
Institute of European Media Law

In its judgment of 16 December 2020, the Federal Court of Justice (*Bundesgerichtshof* - BGH) ruled (Case No. VI ZR 142/24) that identifying reporting in the press about a criminal conviction dating back several years may be permissible even after the probation period has expired and the conviction has been erased from the criminal record. The admissibility of such reporting requires a current reason for the reporting and a corresponding public interest in the information; this must outweigh the interest in resocialisation of the person concerned.

The decision was based on the following facts: in 2017, the former managing director of the football club Alemannia Aachen was given a suspended sentence and a fine for 39 counts of bankruptcy in connection with the club's insolvency. In order to secure the construction of a new stadium, he had transferred a total of EUR 750 000 from Alemannia Aachen to a stadium company that was already insolvent. A few years later, he worked in a responsible position for a bank specialising in debt financing in the sports sector. This personal matter was reported in the press; the name of the person concerned was mentioned, as was his conviction, and the question was also raised as to why a person convicted of bankruptcy was allowed to work for a bank. The person concerned subsequently took legal action against the press company and demanded that it cease and desist from the identifying text-based reporting.

The Federal Court of Justice confirmed that the reporting naming the plaintiff and his criminal conviction impaired the right to protection of his personality and his good reputation under Article 2(1) and Article 1(1) of the German Basic Law (*Grundgesetz* - GG) and under Article 8(1) of the European Convention on Human Rights (*Europäische Menschenrechtskonvention* - ECHR) because it publicised his misconduct and characterised him negatively in the eyes of the readers. However, the interference with the plaintiff's rights is not unlawful, as when weighing up his aforementioned rights against the defendant's right to freedom of expression and media freedom enshrined in Article 5(1) of the GG and Article 10 of the ECHR, the latter prevails.

The Regional Court and the Higher Regional Court of Frankfurt ruled in favour of the plaintiff and considered his moral rights, in particular his interest in resocialisation, to be paramount. After the probation period and the redemption periods had expired, there was a kind of blocking effect against further identifying reporting.

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The BGH has now overturned these decisions. Whether reporting on previous criminal offences is still covered by freedom of expression and media freedom depends on the individual case, according to established case law of the Federal Court of Justice. There is no general obligation to anonymise. True reporting can also be inadmissible if it stigmatises the person concerned in an unacceptable manner or has a pillorying effect. In the case of criminal offences, however, it must be taken into account that the perpetrator himself has triggered a public interest in information that could also justify naming him. It is true that the interest of a convicted person in not being confronted with their offence again increases with time. However, this does not result in an absolute "right to be forgotten". Decisive factors include the seriousness of the offence, the previous prominent position of the person concerned and the reason for the reporting.

In the present case, the fact that the person formerly responsible for the insolvency of a traditional club is now working for a financing credit institution and using his contacts in the football industry continues to be of general public interest. The expiry of the probationary period does not constitute a break that precludes reporting; it is merely one of several factors to be weighed up.

Whether the naming of a name was necessary for journalistic purposes or whether a more restrained presentation would have sufficed was ultimately not a legal but an editorial decision.

The balancing criteria mentioned by the BGH apply across all media. However, in this specific case it must be taken into account that identifying reporting in audiovisual media can give rise to an increased intensity of interference. For all forms of media, taking a fresh look at previous criminal offences requires a new factual cause in order to be permissible.

BGH, Urteil vom 16. Dezember 2025 - VI ZR 142/24 - OLG Frankfurt am Main

https://www.bundesgerichtshof.de/SharedDocs/Entscheidungen/DE/Zivilsenate/VI_ZS/2024/VI_ZR_142-24.pdf?__blob=publicationFile&v=1

Federal Court of Justice, judgment of 16 December 2025 – VI ZR 142/24 – Higher Regional Court of Frankfurt am Main

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[DE] Introduction of advertising on Amazon Prime inadmissible without customer consent

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In a judgment dated 16 December 2020, Munich Regional Court (*Landgericht* - LG) I ruled (case No. 33 O 3266/24) that changes made by the streaming service provider Amazon Prime with regard to the broadcasting of advertising on the Prime Video service, which came into force in February 2024, are inadmissible. In January 2024, Amazon sent an email to subscribers of a paid Prime membership, which also includes the Prime Video streaming service and enables its ad-free use, announcing that the streaming service would no longer be completely ad-free in future. At the same time, Amazon offered continued ad-free use for a monthly surcharge of EUR 2.99 and explained that customers were not required to take any action.

The umbrella organisation of all 16 consumer centres took legal action against this change in order to protect consumer interests.

Munich Regional Court I has now ruled that a unilateral change to the contractual terms and conditions is not possible and that Amazon was not allowed to abolish the advertising-free Prime Video service without the user's consent. According to the court, the email constitutes a misleading commercial act under competition law in accordance with Section 5(2) of the German Act against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb* - UWG). It gave the impression that the contract amendment was effective and did not require consent. In fact, however, Amazon had unilaterally amended the contract without any legal basis. Neither the terms and conditions of use nor the law provide any corresponding authorisation to amend the contract. When concluding the contract, customers were entitled to assume that they would be able to use Prime Video ad-free. The freedom from advertising is an essential component and value factor of the streaming contract. In the court's opinion, this result does not conflict with the freedom of programming guaranteed in Article 5 of the German Basic Law (*Grundgesetz* – GG), as this only protects the content of the programme from state interference; it does not allow the provider to unilaterally introduce advertising, especially since Amazon itself had made an advertising-free offer part of the contract.

The court deduced that the misleading nature of the freedom of consent was relevant under competition law from the fact that the email at issue was aimed at enticing customers to take a closer look at the ad-free, fee-based option.

The court prohibited Amazon from sending similar messages and also obliged the company to send corrective letters to the customers concerned.

Amazon announced that it would review the judgment.

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LG München I, Endurteil v. 16.12.2025 – 33 O 3266/24

https://www.gesetze-bayern.de/Content/Document/Y-300-Z-GRURRS-B-2025-N-34818?hl=true

Tribunal régional de Munich I, jugement définitif du 16 décembre 2025 – 33 O 3266/24

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[DE] Media authorities issue blocking order for the *samidoun.net service*

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In a decision dated 10 December 2025, the Commission for the Protection of Minors in the Media (*Kommission für Jugendmedienschutz* - KJM) ordered the blocking of the illegal website *samidoun.net*. Previously, on 2 November 2023, the then Federal Minister of the Interior, Nancy Faeser, had banned the activities of the international organisation "Samidoun – Palestinian Prisoner Solidarity Network" in Germany. The reason given for this was that the organisation's activities violated German criminal law and were contrary to the idea of international understanding within the meaning of Article 9 (2) of the German Basic Law (*Grundgesetz* - GG) due to widespread dissemination of antisemitic propaganda, calling for the use of violence to enforce its interests and rejecting Israel's right to exist in its public appearances.

The KJM is the supervisory body for the protection of children and young people in private broadcasting and on the Internet; it acts as a decision-making body for the 14 state media authorities in Germany. However, the individual state media authorities are legally competent to act in external relations, i.e. vis-à-vis third parties. Therefore, following the KJM's decision, the state media authorities had to take action to implement it.

On 8 January 2026, the Media Authority of Rhineland-Palatinate, the Media Authority of Berlin-Brandenburg and the Media Authority of North Rhine-Westphalia issued parallel and identical general rulings in implementation of the KJM decision, ordering the access providers based in their area of responsibility to disable access to the domain *samidoun.net* from Germany. In German law, a general public order is an administrative law instrument that is directed at a group of addressees that is or can be determined according to general characteristics. The group of addressees is not named individually. Therefore, the general orders issued here are directed against all access providers located within the jurisdiction of the respective media authority. The term "access provider" is defined more precisely as an undertaking that provides access to a public data network on a commercial basis and whose activities enable technical switching and data transmission between a user's terminal device and the Internet. The orders came into force on 9 January 2026 and require the access providers in question to implement the blocking by 5 February 2026. Domain Name System (DNS) blocking is explicitly mentioned as a possible and suitable blocking measure. The general rulings are valid until 8 January 2028. Shortly after the rulings of the aforementioned state media authorities, the Bavarian Regulatory Authority for New Media issued a similar general ruling on 12 January 2026 with an implementation deadline of 10 February 2026.

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Legal action can be taken against the general orders before the relevant administrative court within one month of notification.

Allgemeinverfügung der Medienanstalt Rheinland-Pfalz

https://medienanstalt-rlp.de/fileadmin/dateien/medienvielfalt/Medienregulierung/Bekanntmachungen/2026-01-08_Samidoun_AV_Medienanstalt_RLP_kurz_DE.pdf.pdf

General ruling of the Rhineland-Palatinate Media Authority

https://medienanstalt-rlp.de/fileadmin/dateien/medienvielfalt/Medienregulierung/Bekanntmachungen/2026-01-08_Samidoun_AV_mabb_kurz_ENG.pdf.pdf

Allgemeinverfügung der Medienanstalt Berlin-Brandenburg

https://www.mabb.de/files/content/document/REGULIERUNG/%C3%96ffentliche%20Bekanntmachungen/26-01-08_Samidoun_AV_mabb_kurz_DE.pdf

General ruling of the Berlin-Brandenburg Media Authority

https://www.mabb.de/files/content/document/REGULIERUNG/%C3%96ffentliche%20Bekanntmachungen/26-01-08_Samidoun_AV_mabb_kurz_ENG_V2.pdf

Allgemeinverfügung der Bayerischen Landeszentrale für neue Medien

https://www.blm.de/de/infothek/amtliche_mitteilungen.cfm?object_ID=28036

General ruling of the Bavarian State Centre for New Media

Allgemeinverfügung der Landesanstalt für Medien NRW

https://www.medienanstalt-nrw.de/fileadmin/user_upload/Presse/Allgemeine_Bekanntmachungen/080126_samidoun_Bekanntmachung.pdf

General ruling of the NRW Media Authority

https://www.medienanstalt-nrw.de/fileadmin/user_upload/Presse/Allgemeine_Bekanntmachungen/080126_samidoun_Bekanntmachung_english.pdf

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FRANCE

[FR] Court ruling on the sale of childlike sex dolls on Shein

Amélie Blocman
Légipresse

Noting that illegal products, in particular childlike sex dolls but also certain weapons and medicines banned from online sale, had been reported as being offered for sale on the Shein online sales platform, designated as a "very large platform" within the meaning of the DSA by the European Commission, the French state summoned the platform's Irish operator and the main companies providing access to it in France before the president of the Paris Court of First Instance under the fast-track procedure. Its principal request was that, under Article 6-3 of the Law of 21 June 2024 on confidence in the digital economy (LCEN) and Regulation (EU) 2022/2065 on digital services (DSA), access to the platform from French territory should be blocked for three months.

After the court president referred the case back to a panel of judges, the latter ruled first of all that there was no provision that would prevent the state from taking action on the basis of Article 6-3 of the LCEN, and that the state was fully entitled to do so to combat online harm affecting a large audience and contravening rules of public policy.

Based on Article 6-3 of the LCEN and Article 8 of the DSA, which prohibit the imposition on intermediary service providers of a "general obligation to monitor the information they transmit or store or to actively seek facts or circumstances indicating illegal activity", the court noted that it was necessary to assess whether the alleged damage justified the French state's request to disable the platform.

In this case, the court found that the sale of the disputed products (childlike sex dolls, category A weapons, medicines banned from online sale) on the platform's marketplace, prohibited by several provisions of the French Criminal Code, was clearly detrimental to public order, the protection of minors or the health and safety of potential buyers and third parties, causing serious harm that it was obliged to stop or prevent. It had also been established that various products related to sexuality, but not child pornography, were being sold on the platform in the "Beauty and health" and "Sexual well-being" categories, and that when users wished to access this content, a "Confirm your age" window opened and they had to choose between "I am over 18 / I am under 18" before accessing the content.

Although not every sexual item offered for sale constituted pornographic content as defined by Article 227-24 of the French Criminal Code, it was clear from the documents produced that some products were offered for sale with particularly crude and explicit photographs and descriptions that could be classified as pornographic, and therefore fell within the scope of the criminal offence.

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The court found that access to this content granted solely on the basis of users declaring their age appeared contrary to the provisions of Article 28 of the DSA, which required providers of online platforms accessible to minors to put in place "appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors, on their service". Pursuant to Article 2(1) of the DSA, this provision was binding on the defendant company, whose place of establishment was located in the EU.

Accordingly, the display and offer for sale of products that could be classified as pornographic content on a generalist, popular online platform accessible to minors that simply required users to declare that they were over 18, without any other age verification measure, constituted unlawful content creating serious harm that justified the intervention of the court pursuant to Article 6-3 of the LCEN.

However, the main request to block the platform was rejected as being manifestly disproportionate in that it would unjustifiably infringe the right to freedom of enterprise. In fact, only certain products had been identified as manifestly illegal and harmful, even though the platform offered hundreds of thousands of items for sale and placed particular emphasis on its clothing products. In addition, the disputed products identified had all been removed within 24 hours by the platform, which had reacted as soon as the first reports had been received and had also suspended its entire marketplace, leaving only clothing items for sale. While the French state maintained that the sale of these products revealed a systemic lack of control, supervision and regulation, the court noted that the platform had implemented what appeared to be a structured, multi-level moderation and internal monitoring system.

Given that reopening access to sexual products that could constitute pornographic content under the same conditions would inevitably and obviously cause serious harm by exposing minors to such content once again, the platform was ordered not to resume the sale of this type of product without implementing age verification measures – other than a simple declaration of majority – making the content inaccessible to minors, subject to a provisional fine of €10 000 per infringement detected, for a maximum period of 12 months.

TJ Paris (procéd. accélérée au fond), 19 décembre 2025, n° 25/57861, État français c/ Sté Infinite Styles Services c. Ltd

https://www.doctrine.fr/d/TJ/Paris/2025/U440ED064504ADC878181

Paris Court of First Instance (accelerated procedure on the merits), 19 December 2025, no. 25/57861, French state v Infinite Styles Services Co. Ltd

https://www.doctrine.fr/d/TJ/Paris/2025/U440ED064504ADC878181

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[FR] The Council of State upholds a €50 000 fine imposed by ARCOM on C8

Amélie Blocman
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C8 asked the Council of State (*Conseil d'État*) to annul the decision by which the French audiovisual regulator (*Autorité de Régulation de la Communication Audiovisuelle et Numérique* – ARCOM) had fined it €50 000 for breaching its obligation to respect human rights laid down in its licence agreement, following the broadcast of a feature on xylazine, described as "the zombie drug", during the programme "*PAF avec Baba*" on 12 September 2023.

The Council of State noted that the host of the programme had wanted to draw viewers' attention to the dangers posed by this substance, which was initially prescribed in animal medicine and thought to be used as an adjuvant to certain drugs, causing hallucinations and a sedative effect. A ten-second video broadcast during the programme showed two people walking with difficulty in the street, to illustrate the harmful effects of xylazine. Information given by the presenter when introducing the video made it possible to locate these people in the Rouen area and, despite the poor resolution of the image, they were likely to be easily identifiable on the basis of their silhouettes and clothing. In this context, the channel should have take precautions to ensure that these people, filmed in a public space without their knowledge or permission, could not be identified, including by their close circle of acquaintances. The broadcast of this video without the implementation of technical anonymisation procedures was likely to infringe their privacy, image, honour and reputation, especially since their walking had not been affected by drug-taking but by a disability. Lastly, the Council of State noted that the fact that the channel had made the disputed footage inaccessible and published a correction the day after the broadcast was not enough to rule out the commission of the breach.

Taking into account the seriousness of the breach and the company's turnover, ARCOM had not therefore exceeded its powers by imposing a €50 000 fine on C8.

Conseil d'État, 18 décembre 2025, n°496478 – Sté C8

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-12-18/496478

Council of State, 18 December 2025, no. 496478 - C8

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-12-18/496478

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UNITED KINGDOM

[GB] Ofcom clarifies compliant age-gate placement for pornography services under the Online Safety Act

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From 25 July 2025, pornography services reachable in the United Kingdom must operate "highly effective" age checks. Ofcom has now clarified how general online safety duties are being operationalised in the UK through specific expectations on product design and presentation. It explains its approach to evaluating compliance where any visibility precedes verification. In short, *where* an age check sits is not cosmetic. If pornographic material is visible *before* the age verification check, the duty may already have been breached.

The statutory basis is the Online Safety Act 2023 (OSA). To support implementation, Ofcom issued age-assurance guidance in January 2025 and an updated package in April 2025. The abovementioned July 2025 milestone marked the point at which services making pornography available to UK users were expected to have effective checks operating. Ofcom records that the ten most-visited sites introduced age checks by the deadline, though operators adopted different placement strategies, which is where the present clarification helps.

To describe market practice, Ofcom identifies four common "age-gate" placements:

a) A "front gate" presents a blank landing page; no content is visible until the user passes the check.

b) A "blur gate" shows thumbnails obscured by blurring before verification; in some variants, titles remain visible, possibly with strong sexual wording.

c) An "image gate" presents clear images, often of clothed persons in suggestive poses, sometimes with hover previews; clicking a thumbnail subsequently triggers verification.

d) An "in-video gate" allows a user to watch part of a video before being stopped and sent to verify, typically up to the point at which nudity would otherwise appear.

The regulatory steer draws on Ofcom’s Protection of Children guidance and the relevant codes. Providers retain flexibility over *methods* of age assurance, but those methods must meet four central criteria. They must be technically accurate, robust, reliable, and fair. For dedicated user-generated pornography services, the codes specify that the age check should be at the point of entry. More broadly, Ofcom expects a provider either to gate at entry or to ensure that no harmful

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content is visible prior to verification.

The reason placement matters is that the OSA defines (under section 236) pornographic content as material that it is reasonable to assume was produced "solely or principally" for the purpose of sexual arousal. Visibility of such material *before* age verification would be inconsistent with the OSA duty. The definition does not turn on nudity. Context and presentation carry weight. Images or clips may be pornographic by purpose, particularly when accompanied by sexually explicit titles or captions. As a result, any model that lets a user see any pornographic material before verification creates compliance risk.

Ofcom accordingly sets out considerations for non-front-gate approaches. A "blur gate" must deploy blurring that is "sufficiently strong" and applied to enough content that what remains visible is not pornographic. An "image gate" requires the provider to ensure that every pre-verification image or preview is non-pornographic, assessed in context and with attention to accompanying language. "In-video gates" are treated as comparatively risky: placing a check part way through a video that, taken as a whole, has the principal purpose of sexual arousal does not necessarily make the pre-gate segment non-pornographic, even if that segment shows no nudity or explicit acts.

Ofcom notes some change across the market practice in the adult sector and the introduction of checks by the largest services used in the UK. However, the regulator emphasises that labels alone do not adequately determine compliance. Placement should not be a secondary design choice and children must not be able to access pornography before verification. For user-generated pornography services in particular, the expectation is that age checks belong at entry.

Overall, Ofcom considers a front gate (a blank landing page, no content visible until the age check is completed) to be the safest and cleanest compliance route for dedicated pornography services – whether the material is user-generated or published by the provider. Looking ahead, the regulator will continue engagement and monitoring across the adult sector, with a view to identifying and addressing non-compliance. A report on age assurance, which is scheduled for publication by July 2026, will assess how services, including pornography services, use age assurance to meet the OSA, evaluate its effectiveness, and identify barriers to effective implementation.

Age checks: Why their placement matters in pornography

https://www.ofcom.org.uk/online-safety/protecting-children/age-checks-why-their-placement-matters-in-pornography

Protecting children from harms online – Volume 4: What should services do to mitigate the risks of online harms to children?

https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/statement-protecting-children-from-harms-online/main-document/volume-4-what-should-services-do-to-mitigate-the-risks-of-online-harms-to-children.pdf?v=403139

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Protection of Children Codes

https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/statement-protecting-children-from-harms-online

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ITALY

[IT] AGCOM publishes list of audiovisual and radio services of general interest

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On 19 January 2026, the Italian Communications Authority (AGCOM) published a list of services of general interest (SGIs) pursuant to new guidelines on prominence for audiovisual and radio media SGIs (Guidelines).

The Italian Audiovisual Media Services Code (AVMS Code) provides that adequate prominence must be guaranteed to SGIs to ensure pluralism, freedom of expression, cultural diversity and effective access to information for the widest possible audience. Through the Guidelines, AGCOM defined the criteria for categorising a service as an SGI, as well as the methods and criteria to ensure adequate prominence.

The Guidelines have categorised the following as SIGs: (a) the Public Broadcasting Service, (i.e. RAI), in relation to its audiovisual and radio media services broadcast for free on any platform and online; (b) national commercial audiovisual media services distributed for free through broadcasting (DVB-T, DVB-S) and online, with a generalist, semi-generalist, information, cultural or kids scheduling/catalogue, subject to certain requirements; (c) local commercial audiovisual services distributed for free online having a Digital Terrestrial Television (DTT) authorisation, subject to certain requirements; (d) national and local radio commercial media services broadcast for free (DAB+, AM, FM); (e) local commercial radio and audiovisual media services distributed for free through broadcasting (DVB-T, DVB-S) and online, subject to certain stricter requirements.

Following the publication of the Guidelines, the operators falling within the SGI definition have submitted their application to AGCOM, except for the SGIs under letter (e) above which automatically qualify as SGIs. The list of SGIs published by AGCOM became binding on 3 February 2026 (15 days after its publication).

All devices allowing access to SGIs are required to comply with prominence obligations (including smart TVs, DTT and satellite decoders, dongles, set-top boxes, car radios and in-car infotainment, but excluding smartphones, tablets, personal computers, smart speakers and video game consoles).

The Guidelines mandate that SGIs be positioned prominently on device home pages, after the icon granting access to DTT, organised in a dedicated strip of icons (which should not be pre-installed) in a specific order.

1. National “generalistic” providers of audiovisual SGIs distributed online, placed according to the order of the DTT channel line-up (Logical Channel Number –

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LCN). Therefore, there will be five icons: RAI, Mediaset, La7, Sky, and Warner Bros. Discovery.

2. A “Local TV” icon allowing access to local audiovisual SGIs distributed online, ordered according to the LCN of the service broadcast on DTT.

3. A “National TV” icon allowing access to the other national audiovisual SGIs distributed online, ordered according to the LCN of the service broadcast on DTT and, subsequently, for any services without an LCN, in alphabetical order.

4. A “Radio” icon allowing access to radio SGIs distributed online, placed in alphabetical order.

Within 12 months of the publication of the SGI list, all prominence obligations under the Guidelines become binding for all the devices and user interfaces concerned, even those already commercialised, except for devices capable of receiving audio content in DAB+, AM and FM technology installed in vehicles, for which the obligations come into force twelve months after the publication of the Guidelines.

SIGs included in the list must promptly notify AGCOM of any changes to the information declared in their application. Providers of new services which may qualify as SGIs can submit a formal request to the authority to be included in the list. AGCOM will update the list annually.

For further information, please consult the full list of SGIs as well as AGCOM’s Decision and its annexes.

Delibera 250/25/CONS recante “Revisione delle linee guida in materia di prominence dei servizi di media audiovisivi e radiofonici di interesse generale”

https://www.agcom.it/provvedimenti/delibera-250-25-cons

Resolution 250/25/CONS on “Revision of guidelines on the prominence of audiovisual and radio media services of general interest”

Allegato A alla Delibera 250/25/CONS recante “Linee guida in materia di prominence dei servizi di media audiovisivi e radiofonici di interesse generale”

https://www.agcom.it/sites/default/files/media/allegato/2025/250_25_CONS_ALLEGATO%20A_0.pdf

Annex A to Resolution 250/25/CONS on “Guidelines on the prominence of audiovisual and radio media services of general interest”

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Lista dei servizi di interesse generale di cui alla delibera n. 250/25/CONS, Agcom

https://www.agcom.it/node/45987

List of services of general interest referred to in Resolution No. 250/25/CONS, AGCOM

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NORTH MACEDONIA

[MK] Recent Legal Developments in Influencer Registration in North Macedonia

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Following the alignment of the national audiovisual media regulatory framework with European Union law, in particular the Audiovisual Media Services Directive (AVMSD)(EU) 2018/1808, North Macedonia introduced further legislative and regulatory measures aimed at adapting audiovisual media regulation to the digital environment and to new forms of audiovisual content creation and distribution carried out via online platforms.

This alignment was implemented within the framework of the Law amending the Law on Audio and Audiovisual Media Services (Official Gazette of the Republic of North Macedonia No. 154/23) which provides the legal basis for extending audiovisual media rules to natural persons providing audiovisual media services on demand.

Building on this legislative framework, a dedicated by-law regulating the registration of influencers came into force in July 2025, establishing 31 December 2025 as the deadline for compliance and registration. Compliance with the registration obligation and the applicable rules is monitored and enforced in accordance with the Law on Audio and Audiovisual Media Services.

The preparation of the by-law was preceded by a consultative process involving a broader group of influencers, alongside other relevant stakeholders operating in the audiovisual and digital content ecosystem. This process was intended to ensure that the regulatory text reflected the practical realities of content creation and dissemination on social media platforms.

The draft by-law was published for public consultation, during which all interested parties were allowed to submit comments, observations and proposals. Contributions received during the consultation period were reviewed as part of the regulatory process. They informed the finalisation of the by-law, in accordance with applicable procedural requirements governing secondary legislation.

Under the new regulatory framework, influencers may be legally qualified as natural persons providing on-demand audiovisual media services, where predefined conditions are cumulatively fulfilled. This qualification reflects the extension of existing audiovisual media concepts to the online environment and applies to individuals whose activities go beyond purely private or incidental content sharing.

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The framework applies to influencers who disseminate audiovisual content via online platforms and who engage in economic activity related to such content. The regulatory approach is platform-neutral and applies irrespective of the specific social media or video-sharing platform used for content distribution.

The by-law establishes six cumulative criteria for determining whether an influencer falls within its scope.

First, the audiovisual content must be provided through electronic communications networks, including platforms for sharing audiovisual content.

Second, the activity must constitute an economic service, meaning that it represents an economic activity carried out in the market.

Third, the principal purpose of the service, or a distinct part thereof, must be the provision of audiovisual programmes intended to inform, entertain or educate, with the influencer exercising editorial responsibility over the selection and organisation of the content.

Fourth, the influencer must have published at least 24 audiovisual content items within the previous 12-month period, demonstrating regular activity over time.

Fifth, the service must be intended for the general public, which, for the by-law, is presumed where the influencer’s profile reaches at least 10 000 followers or subscribers.

Sixth, the service must enable access to audiovisual content on an on-demand basis, typically through an organised catalogue of content.

Only influencers who cumulatively meet all six criteria are subject to the registration obligation.

Registered influencers are entered into a public register maintained by the regulatory authority. Registration is carried out per individual influencer, irrespective of the number of platforms on which audiovisual content is distributed, with all relevant platforms declared at the time of registration.

The register serves as a transparency and oversight mechanism, enabling the regulatory authority to monitor compliance with applicable audiovisual media rules and to identify providers falling within the regulatory scope.

Registered influencers are subject to obligations deriving from the Law on Audio and Audiovisual Media Services and the corresponding secondary legislation.

These obligations are not limited to transparency in audiovisual commercial communications. Influencers must clearly identify advertising, sponsorship and product placement, regardless of the form of remuneration or economic benefit involved.

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In addition, the framework applies rules concerning the protection of minors, including safeguards against content that may impair their physical, mental or moral development. Registered influencers are also subject to professional standards applicable to audiovisual media services, consumer protection principles and other administrative duties prescribed by law.

Non-commercial audiovisual content disseminated by influencers remains outside the scope of the regulatory framework.

The adoption of the by-law on influencer registration represents a further step in the national implementation of the AVMSD. By defining clear eligibility criteria, introducing a registration mechanism and applying existing audiovisual media obligations to influencers engaged in economic activity, the framework provides legal clarity regarding the regulatory treatment of influencers operating in the digital audiovisual environment.

Rulebook on Natural Persons Providing On-Demand Audiovisual Media Services (Influencers/Vloggers/Creators)

https://shorturl.at/5JNRm

Register of influencers/vloggers/content creators

https://avmu.mk/en/influencers/

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POLAND

[PL] TVP S.A. broadcasts under scrutiny by the National Broadcasting Council

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KC Legal

On 20 January 2026, the *Krajowa Rada Radiofonii i Telewizji* (National Broadcasting Council – KRRiT) published a report entitled “No editing, no procedure, no balance. Monitoring of the current affairs programmes of TVP S.A. (in liquidation)”, which examined TVP S.A. in the context of the statutory requirement for public media to ensure pluralism, impartiality, balance and independence (Article 21(1) of the Radio and Television Act of 29 December 1992). The report aims to verify whether the current affairs programming of the aforementioned public television station meets the statutory requirements and, thus, whether the interests of viewers are being met.

The competence of the KRRiT to examine the activities of public media is set out in the Radio and Television Act, which requires the KRRiT to safeguard freedom of speech in radio and television, the independence of media service providers and video-sharing platform providers, the interests of service recipients and users, and the open and pluralistic nature of radio and television (Article 6(1)). At the same time, the tasks of the KRRiT include, among others, organising research on the content and reception of media services and video-sharing platforms (Article 6(2)(5)).

The report indicates that 30 programmes broadcast by TVP S.A. were examined over a period of just over a month (i.e. from 29 September to 4 November 2025). The analysis method was described as follows: “Each researcher filled out a form containing two types of questions: open and closed. In the open sections, they wrote down their own opinion about the programme and provided selected characteristic statements made by guests and hosts of individual programmes. The researcher answered the closed questions by placing an 'x' in the appropriate research category. The sum of 'x' in each category allows for the evaluation of a specific programme in relation to other programmes”.

The programmes surveyed included six selected current affairs programmes broadcast by TVP S.A. on TVP INFO, i.e. *Bez retuszu* (hosted by Marek Czyż, broadcast at 8:18 p.m. on Mondays), *Trójkąt polityczny* (co-hosted by Renata Grochal and Aleksandra Pawlicka, broadcast at 8:20 p.m. on Tuesdays), *Bez trybu* (hosted by Justyna Dobrosz-Oracz, broadcast at 8:18 p.m. on Wednesdays), *Niebezpieczne związki* (hosted alternately by Dorota Wysocka-Schnepf and Grzegorz Nawrocki, broadcast at 8:18 p.m. on Thursdays), *Co ludzie powiedzą?* (hosted by Wojciech Szeląg, broadcast at 8:18 p.m. on Saturdays), and *Kontrapunkt* (selected programmes hosted alternately by Karolina Opolska, Wojciech Szeląg and Mikołaj Lizut, broadcast at 6:20 p.m. Monday to Friday). The

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report did not mention the criteria for selecting the above six current affairs programmes.

According to the report, the tone of statements in the programmes in question was predominantly described as negative/accusatory towards the opposition (71% of programmes), defensive/controlling (19%) and neutral-analytical (10%). In view of the above, the KRRiT concluded that, in almost all programmes, the narrative was characterised by strong polarisation between the ruling party and the opposition.

The report points out that, in the analysed programmes, criticism was directed at key figures from one political party at the expense of important issues from recent years. It concludes that personal issues prevailed over systemic ones in the public debate. It estimates that “78% of the public debate was personalised, focusing on figures from political life rather than political, social or economic processes, which limited the space for systemic analysis, to which only 22% of the topics discussed in the programmes were devoted”.

In the opinion of the KRRiT, the report shows that the programmes analysed in the given period did not meet the statutory requirements imposed on public television, i.e. pluralism, impartiality, balance and independence. It points out that the current affairs programmes in question were characterised by bias and personalisation of the message at the expense of factual debate, which is contrary to the impartial expert exchange of views required and expected from public media, taking into account the current realities and views of Polish society.

Bez retuszu, bez trybu, bez równowagi. Monitoring audycji publicystycznych TVP w likwidacji

https://www.gov.pl/attachment/cd94d00f-3b5b-42cc-bdde-ed851db5cb6b

KRRiT report, "No editing, no procedure, no balance. Monitoring of the current affairs programmes of TVP S.A. (in liquidation)"

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