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European Commission opens infringement procedures against 23 member states for failing to transpose the revised AVMSD 2018

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On 23 November 2020, the European Commission announced that it had launched infringement procedures against 23 EU member states and the United Kingdom for failing to transpose the revised Audiovisual Media Services Directive 2018 (AVMS Directive) (see IRIS 2019-1/3) into national law. The revised AVMS Directive was enacted in November 2018, and under Article 2, EU member states were required to incorporate the Directive into national law by 21 September 2020, and to notify the Commission of the text of the main provisions of national law which was adopted. However, the Commission stated that as of 23 November 2020, only Denmark, Hungary, the Netherlands and Sweden had notified transposition measures and declared their notification complete.

The revised AVMS Directive contains a range of new rules, including more flexibility in television advertising; a strengthened country-of-origin principle; increased obligations to promote European works for on-demand services (such as Netflix), including at least a 30% share of European content in their catalogues and the requirement to ensure the prominence of this content; certain audiovisual rules being extended to what are termed video-sharing platforms (such as YouTube); extending the obligation to protect minors also to video-sharing platforms, which must put in place appropriate protective measures; reinforced protection on television and video-on-demand against incitement to violence or hatred and public provocation to commit terrorist offences; and video-sharing platforms also being required to take appropriate measures to protect people from incitement to violence or hatred and content constituting criminal offences.

The Commission stated that member states had 21 months to transpose the revised AVMS Directive into national legislation, and has also published guidelines on European works and video-sharing platforms (see IRIS 2020-8/3). As such, the Commission sent letters of formal notice to Belgium, Bulgaria, Czechia, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, and the United Kingdom, requesting them to provide further information within two months. Under the EU treaties, the Commission may take legal action – an infringement procedure – against an EU member state that fails to implement EU law. This legal action involves a number of stages, including: first, sending a letter of formal notice requesting further information to the member state concerned, who must send a detailed reply; (b) second, sending a reasoned opinion: a formal request to comply with EU law; and (c) the Commission deciding to refer the matter to the EU Court of Justice.

European Commission, Commission opens infringement procedures against 23 member states for failing to transpose the Directive on audiovisual content

https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2165