

IRIS 2015-4/16

LU-Luxembourg: New Grand-Ducal Regulation on Protection of Minors in Audiovisual Media Services

The Government of Luxembourg adopted a Grand-ducal regulation on the protection of minors in audiovisual media services (*Règlement grand-ducal relatif à la protection des mineurs dans les services des médias audiovisuels*) on 8 January 2015. In 2013, the European Commission had initiated infringement procedures against Luxembourg for failure to implement Article 12 and 27 of the Audiovisual Media Services Directive (AVMSD). The regulation thus specifies the measures providers of audiovisual media services are required to take to ensure the protection of minors in accordance with said rules of the AVMSD, which had been transposed previously by Article 27ter (3) and Article 28quater of the Law on Electronic Media (*Loi sur les médias électroniques*).

The draft regulation, which was proposed on 25 July 2014 (see IRIS 2015-2/27), largely corresponds with the newly adopted regulation. Accordingly, it establishes a system of classification for linear as well as non-linear audiovisual media services. The regulation sets out five age groups (programmes for all audiences and programmes not suitable under 10/12/16 and 18 years), which correspond to five categories of programme types (e.g. category I implies programmes appropriate for all audiences). The regulation also prescribes duties of labelling transmission times for linear service providers (so-called watershed rules), as well as information for viewers (Articles 1-7 regulation). The pictograms are outlined in the annex of the regulation and show the age group (-10, -12, -16 or -18) in black letters within a white circle on a black background. For providers of on-demand services, the installation of parental controls is mandatory (Article 10 regulation). In addition, programmes considered harmful to minors aged below 18 (material of category V) are to be presented in a separate part of the website, which is only accessible after it has been verified that the user is of age (Articles 11 and 12 regulation). Service providers are responsible for applying the classification and respective additional measures (Articles 7 and 9 regulation).

The regulation also stipulates rules for service providers established in Luxembourg, but principally targeting the public of other Member States. This rule takes into account that Luxembourg hosts many service providers disseminating their programmes throughout the EU. Such providers may opt for the classification system operated in the receiving state, provided that an equivalent level of protection is accomplished there (Articles 8 (1) and 9 (1) of the regulation). Providers of on-demand services may also choose to retain the classification obtained in the country where the programme was produced (Article 9 (1) regulation). It is the responsibility of the service provider to notify the chosen regime of protection to the Luxembourg regulator, the Independent Audiovisual Authority of Luxembourg, ALIA (see IRIS 2013-10/32), which approves (or refuses) the alternative system. In the draft regulation of July 2014, it fell to the Minister responsible for the media to make the final decision on the applicable system, ALIA merely having a consultative function. Hence, this modification further strengthens the position of ALIA (for more details about the substantive rules contained in the regulation see IRIS 2015-2/27).

• *Règlement grand-ducal du 8 janvier 2015 relatif à la protection des mineurs dans les services de médias audiovisuels, Mémorial du 15 janvier 2015, A - n°7, page 44* (Grand-ducal regulation of 8 January 2015 concerning the protection of minors in audiovisual media services, Mémorial 15 January 2015, A - N°7, p. 44)

<http://merlin.obs.coe.int/redirect.php?id=17469>

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