



Update on AVMSD

Focus on European works & Article 13

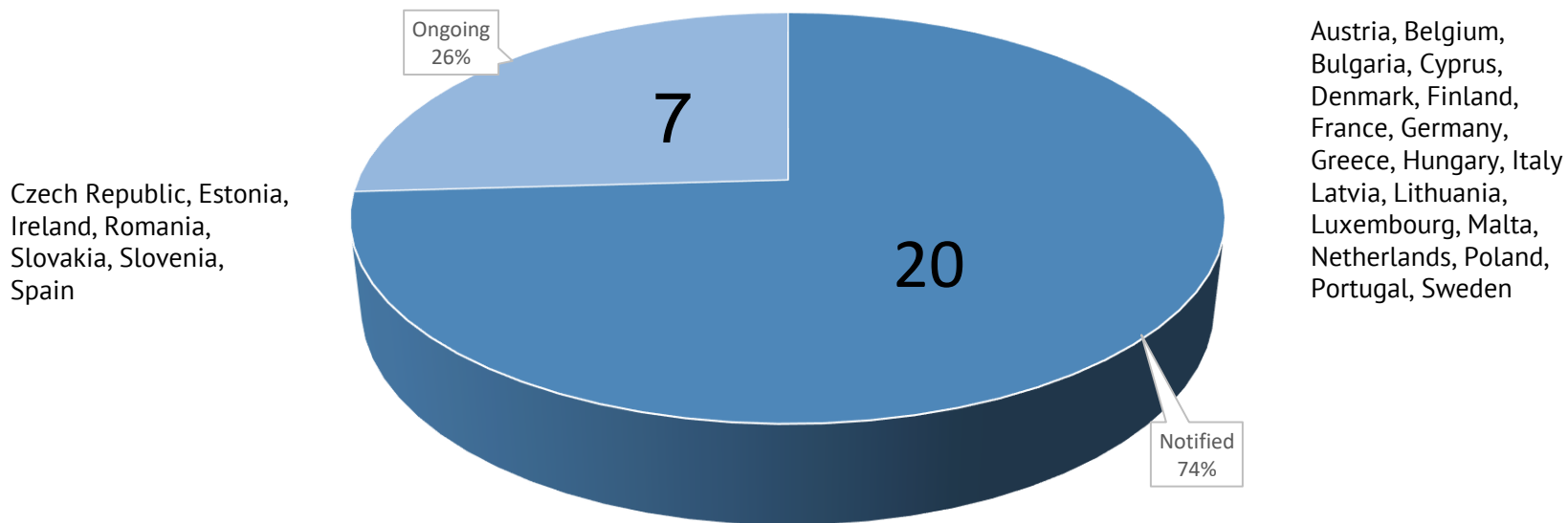
Cine-Regio "Berlinale" meeting
14 February 2022

Maja Cappello

Head of Department for legal information
European Audiovisual Observatory



State of play of the implementation of the directive



- Deadline for transposition **19 September 2020**
- On **23 November 2020**, the Commission launched infringement procedures **against 23 Member States**

Promotion of European works – Linear services (Art. 16-17)

Obligations on broadcasters remain unchanged from the 2010 Directive.



**of transmission time
to European works**



**of transmission
time/programming budget to
independent European works**

Promotion of European works – VoD (Art. 13)



**Mandatory
minimum
share in
catalogues**

+

**Prominence
obligation**

No obligations on VSPs



Optional financial obligations:

- **Production**
- **Direct investments**
- **National funds**

If introduced, they may include targeting services

Alternative obligations under the previous Directive of 2010

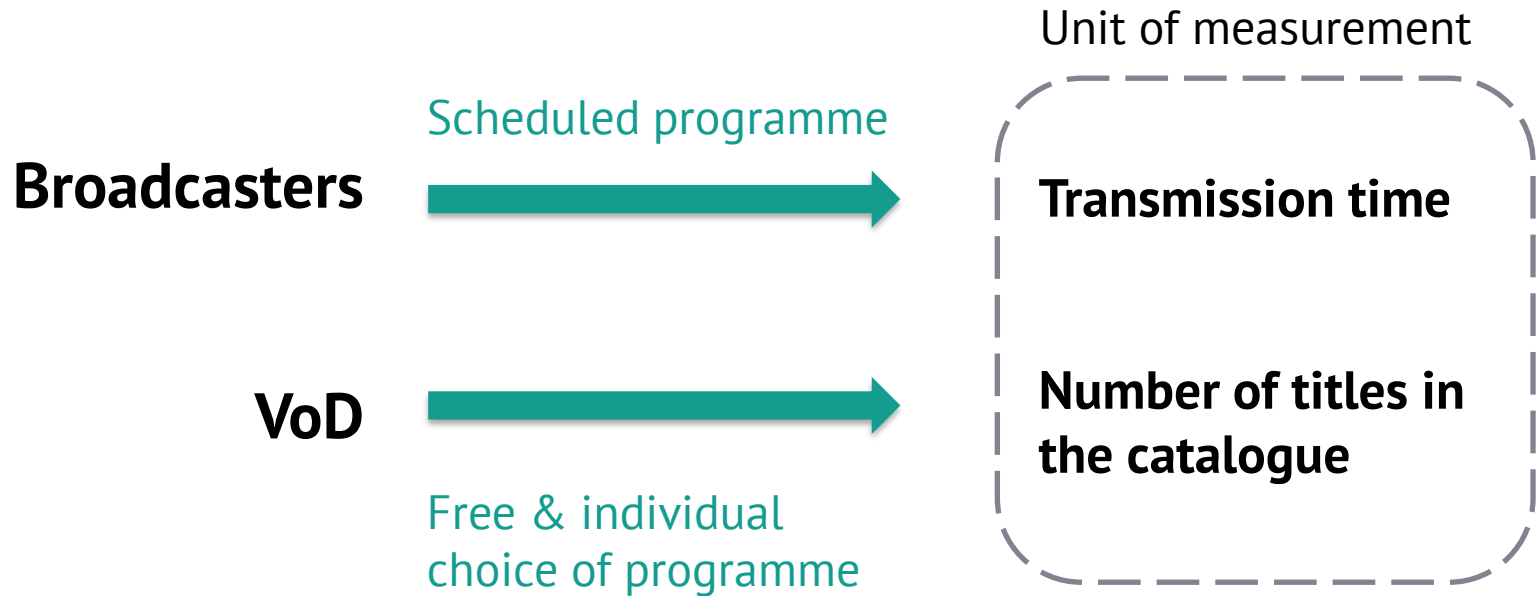
- **Financial contribution to production/rights acquisition in European works**
- **Share of European works in VOD catalogues**
- **Prominence obligation**

Promotion of European works – VoD (Art. 13)

EU Commission's Guidelines of 7 July 2020:

- a) the calculation of the share of European works in the catalogues of on-demand providers
- b) the definition of 'low audience' and 'low turnover' for the purposes of exemptions to the obligations concerning the promotion of European works.

Calculation of the share of European works (1/2)



Calculation of the share of European works (2/2)

- What constitutes a **title** ?
 - Feature and TV films : **one film** = one title
 - Series: **one season** = one title
- Calculated on **what**?
 - **National catalogue**
- Calculated **when** ?
 - **At every point time or**
 - **On average over a pre-determined period**

Exemption for low audience and low turnover (1/2)

■ Low turnover

Threshold of annual turnover

< EUR 2 million

Determination of the turnover

- Recommendation 2003/361/EC concerning the definition of micro, small and medium sized enterprises
- Size of the audiovisual market (< 1% of the overall revenue)

Determination of low audience for VOD (2/2)

- SVOD ➤ active paying subscribers
- TVOD ➤ unique customers/unique accounts
- AVOD ➤ unique visitors

Calculation

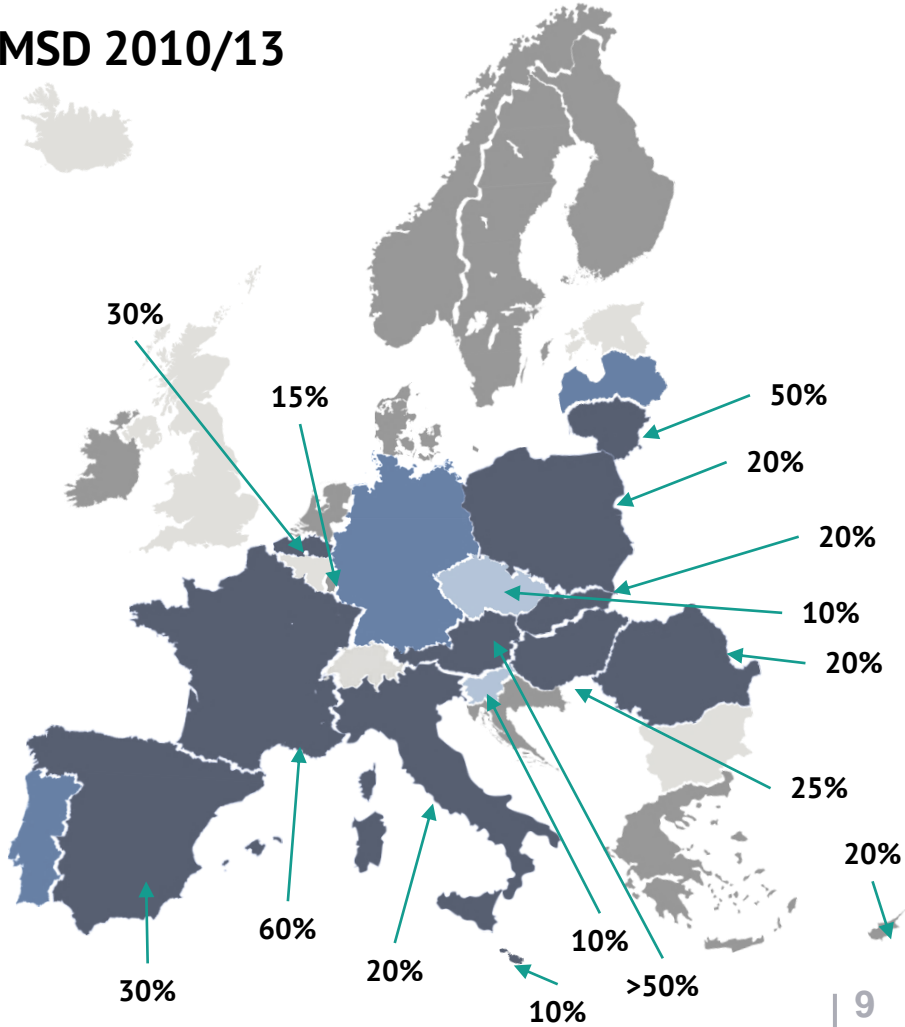
Share: $\text{Nbr of user} / \text{Total nbr of users of similar VOD services} \times 100$

Threshold: Less than 1% in a given Member State

State of implementation of Art. 13 AVMSD 2010/13

Quota obligation on VOD services





- Mandatory with a specified quota
- Mand. without a specified quota
- Optional (or investment)
- General obligation
- No obligation

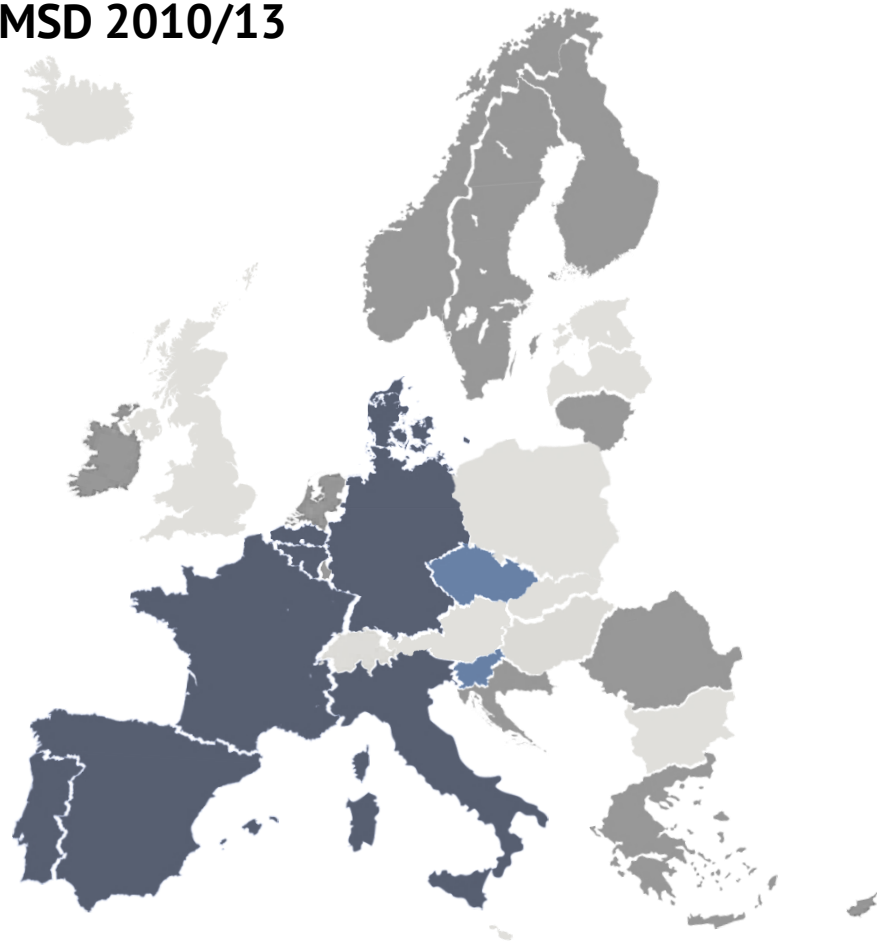


State of implementation of Art. 13 AVMSD 2010/13

Level of financial investment by public VOD services in European works

Direct contribution to production or acquisition of rights

-  **Mandatory Investment**
-  **Optional (or quota)**
-  **General obligation**
-  **No obligation**

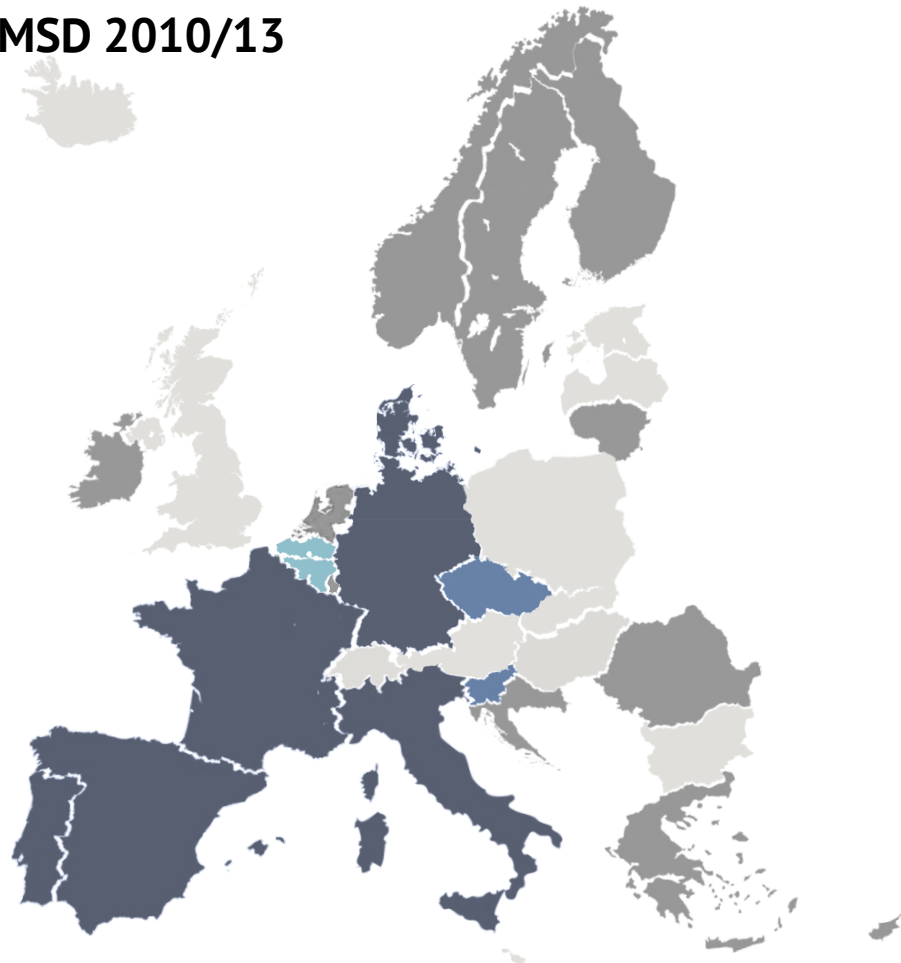


State of implementation of Art. 13 AVMSD 2010/13

Level of financial investment by private VOD services in European works

Direct contribution to production or acquisition of rights




-  **Mandatory Investment**
-  **Optional (or quota)**
-  **Optional (or levy)**
-  **General obligation**
-  **No obligation**

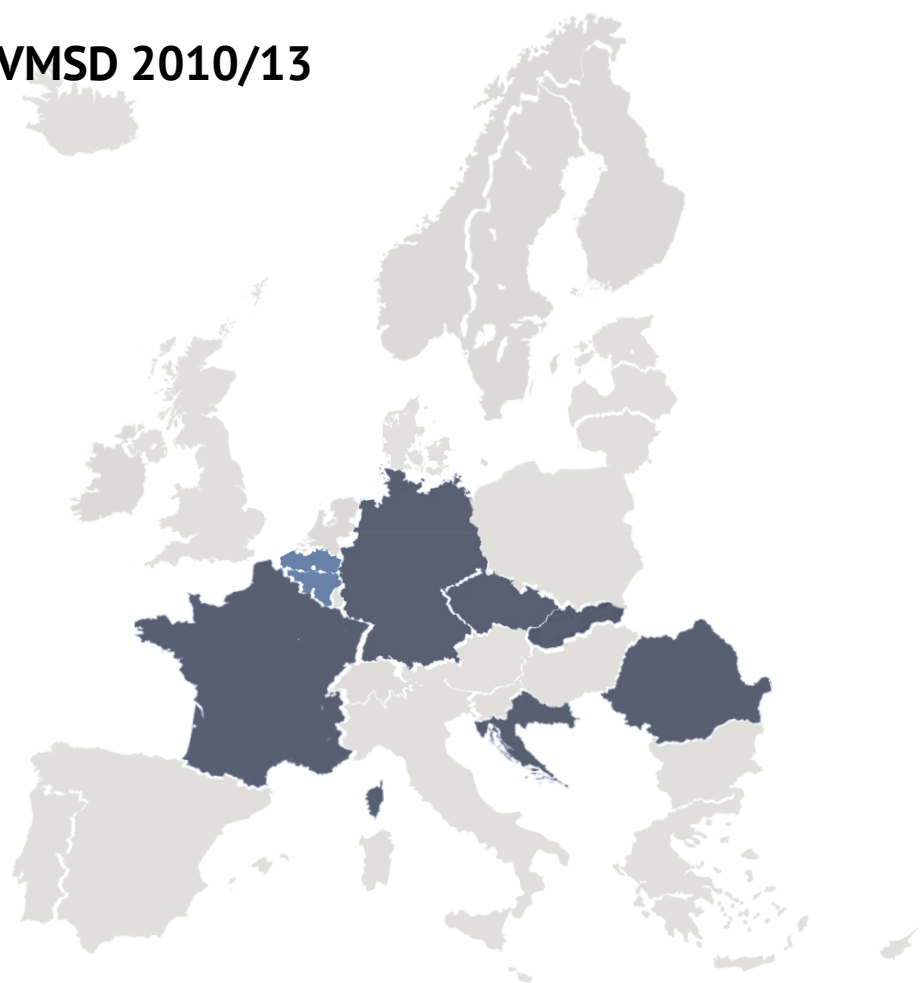


State of implementation of Art. 13 AVMSD 2010/13

Levies on VOD services

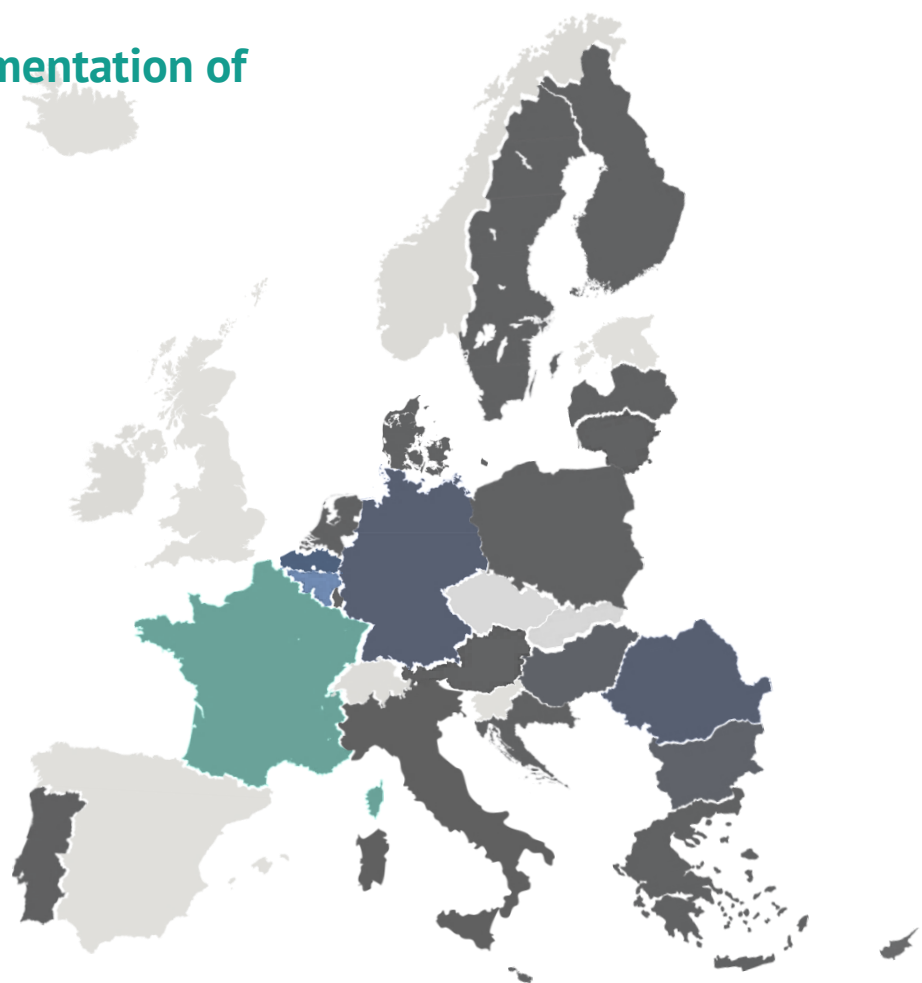
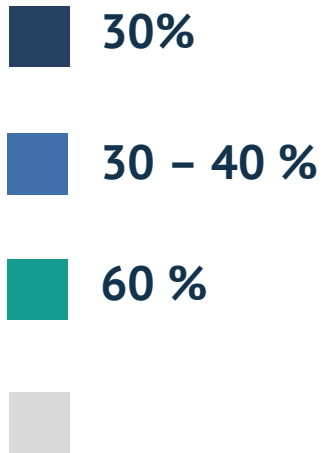
*Indirect contribution to production
or acquisition of rights*

-  **Mandatory (both public and private)**
-  **Optional (or investment for private)**
-  **No obligation**



Current state of the art of the implementation of Art. 13 AVMSD 2018/1808

Quota obligation on VOD services

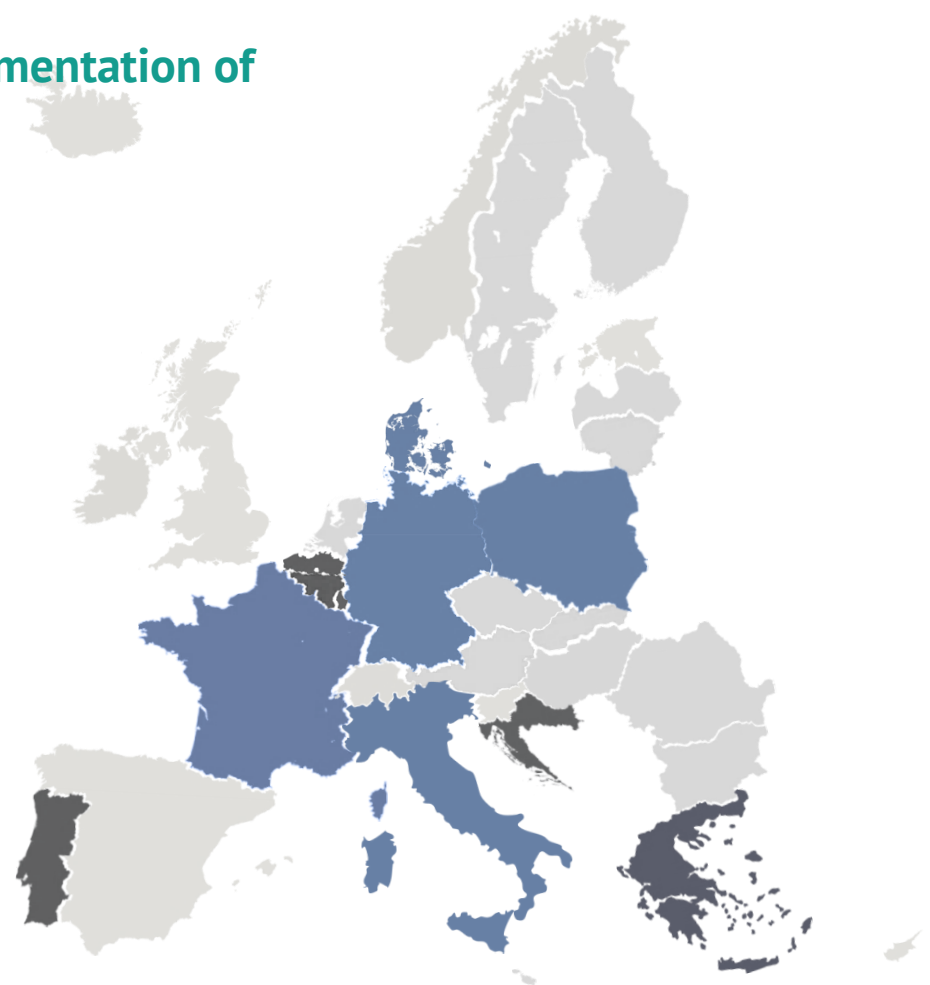


Current state of the art of the implementation of Art. 13 AVMSD 2018/1808

Financial investment obligation on VOD services

Including non-domestic targeted services

-  **Mandatory**
-  **Pre-existing obligation (prior to AVMSD 2018)**
-  **No specific obligation**



Next steps

- **Reporting 2 years after the implementation and then every 3 years**
- **Evaluation 19 December 2026**

For more info on the AVMSD:

AVMSD Tracker: <https://www.obs.coe.int/en/web/observatoire/avmsd-tracking>

AVMSDdatabase: <http://avmsd.obs.coe.int/>

For any queries:
maja.cappello@coe.int



Observatoire européen de l'audiovisuel
European Audiovisual Observatory
Europäische Audiovisuelle Informationsstelle

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE