



## 5.4. BG – Bulgaria – National legal summary<sup>121</sup>

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are transposed into the Radio and Television Act (RTA).

### 5.4.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Radio and Television Act (ЗАКОН за радиото и телевизията, RTA).<sup>122</sup>
- Criminal Code (Наказателен кодекс).<sup>123</sup>

### 5.4.2. Definitions and scope

This section aims at identifying the relevant definitions related to VSPs stemming from the transposition of the revised AVMSD as well as elements of interpretation of the main concepts present in those definitions.

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<sup>121</sup> The factsheet on Bulgaria incorporates the feedback received from Maria Beltcheva from the Council for Electronic Media (CEM) during the 2021 and 2022 checking rounds with the national media regulatory authorities.

<sup>122</sup> <https://www.lex.bg/laws/ldoc/2134447616>.

<sup>123</sup> <https://lex.bg/laws/ldoc/1589654529>.



**Table 24. Definition of the main concepts related to VSPs**

Concept	Existence of a definition
VSP service	Yes.
VSP provider	Yes.
User-generated video	Yes.
“Principal purpose”	No.
“Dissociable section”	No.
“Essential functionality”	No.

Source: Bulgarian response to European Audiovisual Observatory standardised survey

#### 5.4.2.1. VSP service

Article 2, paragraph 6 of RTA defines the term “video-sharing platform service” by transposing the text of the revised AVMSD verbatim, as follows:

*A video sharing platform service shall be a service within the meaning of Art. 56 and 57 of the Treaty on the Functioning of the European Union, the main purpose of the service or a separate part of it or essential functionality of the service is dedicated to providing broadcasts, user-generated videos or both to the general public for which the provider of the video-sharing platform is not editorially responsible, for information, entertainment or education through electronic communications networks within the meaning of the Electronic Communications Act, and the organisation of which is determined by the provider of the video-sharing platform, including by automatic means or algorithms, in particular by displaying, marking and arranging in a certain order (sequencing).*

#### 5.4.2.2 VSP provider

Article 4 of the RTA defines the term “video-sharing platform provider” by transposing the text of the revised AVMSD verbatim, as follows:

*A provider of a video-sharing platform shall be the natural person – sole trader, or legal entity that provides a service on a video-sharing platform.*

#### 5.4.2.3. User-generated video

Article 2, paragraph 7 of the RTA defines user-generated video, by transposing the text of the revised AVMSD verbatim, as follows:



*A video generated by a user shall be a series of moving images with or without sound, which shall be a separate element, regardless of its duration, created by a user and uploaded to a video-sharing platform by that user or any other user.*

#### 5.4.2.4. “Principal purpose” or “dissociable section” of a VSP service

There are no details in the primary legislation or in other texts (secondary legislation, by-laws, recommendations, caselaw, etc.) on how to interpret these concepts.

#### 5.4.2.5. “Essential functionality” of a VSP service

There are no details in the primary legislation or in other texts (secondary legislation, by-laws, recommendations, caselaw, etc.) on how to interpret these concepts.

### 5.4.3. Obligations and measures imposed on VSP providers

The revised AVMSD provides for the extension of its scope to cover VSPs. It introduces obligations on these players to take appropriate measures to protect minors from harmful content which may impair their physical, mental or moral development; to protect the general public from illegal content and content that incites violence or hatred; and to respect certain obligations around commercial communications (Article 28b (1) and (2) of the revised AVMSD). To fulfil these obligations, member-states are required to ensure compliance with the measures listed in Article 28b (3) of the revised AVMSD.

This section aims at identifying the obligations and measures imposed on VSP providers under national legislation in order to ensure their compliance with those obligations.

When available, this section also provides other additional relevant information about the measures and concepts at stake.

#### 5.4.3.1. General provisions

Prohibitions related to discrimination, incitement to hatred and the protection of minors stem from legislative acts other than media legislation (such as the Criminal Code, the Law on Protection against Discrimination, etc.), but also from the RTA which provides for the prohibition of incitement to hatred, as well as the protection of minors relative to any content that risks the impairment of their physical, mental, moral and/or social development applicable to all audiovisual media service providers.

In terms of the obligations of VSPs, relevant provisions stem directly from those envisaged by the AVMSD and include:



*Article 19e:*

*(1) Without prejudice to the application of Art. 13-17 of the E-Commerce Act, providers of video-sharing platforms shall take appropriate measures:*

*1. to protect children from broadcasts, user-generated videos and audiovisual commercial messages, which may harm their physical, mental, moral and/or social development, in accordance with Article 17a, para. 1-3;*

*2. to protect the audience from user-generated videos and audiovisual commercial communications the content of which incites violence or hatred against a group of persons or a member of a group, on any of the grounds set out in Article 21 of the Charter of Fundamental Rights of the European Union;*

*3. to protect the audience from user-generated programmes, videos and audiovisual commercial communications with content, the distribution of which constitutes a crime according to the Penal Code - public incitement to commit terrorist offences, crimes related to child pornography and crimes related to racism and xenophobia.*

*(...)*

*(5) The providers of video-sharing platforms undertake to comply with the norms of the National Ethical Rules for Advertising and Commercial Communication, developed by the National Council for Self-Regulation Association, including but not limited to effectively reducing the exposure of children to commercial communications for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular containing fats, trans-fatty acids, salt or sodium and sugars, the excessive intake of which in the diet is not recommended.*

*(6) Providers of video-sharing platforms shall determine appropriate measures to achieve the objectives of this Article, according to the nature of the content concerned, the harm it may cause, the characteristics of the category of persons to be protected as well as the rights and legitimate interests at stake, including those of video-sharing platform providers and users who have created or uploaded content, and in the interest of the audience.*

*(7) The measures under par. 6 shall be applicable and proportionate, taking into account the size of the service of the video-sharing platform and the nature of the service provided. These measures cannot lead to preliminary control or filtering of the upload of content that does not comply with Article 17 of the Electronic Commerce Act.*

*(...)*

*(9) The personal data of children, collected or received in another way by the providers of platforms for sharing videos according to para. 8, items 4 and 6, shall not be processed for commercial purposes such as direct marketing, profiling and behaviour-oriented advertising.*

*(...)*

*(11) When imposing measures that are more detailed or more stringent than the measures referred to in Article 28b (3) of Directive 2010/13/EU, as amended by Directive (EU) 2018/1808 to providers of video-sharing platforms, the requirements laid down in the applicable Union law shall be complied with.*

*(12) Self-regulation is encouraged through codes of conduct of the European Union according to Article 4b. Video-sharing platform providers are encouraged to share best practices on codes of conduct in the area of co-regulation.*



*(13) Notwithstanding the application of this law by the Council for Electronic Media, the users of the video-sharing platforms may defend their rights before a court in respect of the providers of video-sharing platforms in accordance with para 1 and para 6-8.*

#### 5.4.3.2. Adapting terms and conditions of the VSP service to include those obligations – Article 28b (3) (a) AVMSD

Regarding the measure consisting in including and applying in the terms and conditions of the VSP services the requirements referred to in section 5.4.3.1, the legislation, in Article 19e establishes such obligation, as well as the obligation for such measures to be agreed with the national media regulatory body, in the following manner:

Article 19e:

*(10) Providers of video-sharing platforms shall draw up general terms and conditions, which shall be agreed with the Council for Electronic Media for compliance with the provisions of this Article. They must contain the measures under para. 6 (appropriate measures – B.Z., l.l.), which guarantees:*

- 1. the observance of the requirements indicated in para. 1;*
- 2. the impartial settlement of disputes between suppliers and consumers through an out-of-court mechanism, without depriving consumers of the legal protection provided by national law;*
- 3. the observance of the requirements under Art. 75, para. 1, and para. 4-9 in respect of commercial communications that are not organised and positioned by the provider of a sharing platform.*

#### 5.4.3.3. Adapting terms and conditions to include obligations regarding commercial communications that are not marketed, sold or arranged by the VSP provider – Article 28b (3) (b) AVMSD

Regarding the measure consisting in including and applying in the terms and conditions of the VSP services the requirements set out for audiovisual commercial communications that are not marketed, sold or arranged by the VSP providers, Article 19e of RTA stipulates that VSP providers shall observe the requirements in respect of the audiovisual commercial communications which they organise and position. They shall also observe the requirements related to commercial communications that are not organised and positioned by the VSP provider and shall draw up general terms and conditions, which shall be agreed with the regulatory authority.



#### 5.4.3.4. Having a functionality for users who upload user-generated videos to declare whether such videos contain audiovisual commercial communications – Article 28b (3) (c) AVMSD

Regarding the measure consisting in having a functionality for users who upload user-generated videos to declare whether such videos contain audiovisual commercial communications as far as they know or can be reasonably expected to know, Article 19e of RTA stipulates these obligations in line with the text of the AVMSD, as follows:

(8) The measures under para. 6 depending on the case may consist of:

1. the availability of a functionality for users who upload user-generated video to declare whether that video contains audio-visual commercial communications, insofar as they are aware of it or are reasonably expected to be aware of it.

*(4) The providers of video-sharing platforms shall clearly inform the users of the broadcasts and the videos generated by users, containing audiovisual commercial communications, when the users have declared according to para. 8, item 1, that these messages contain audiovisual commercial communications or when this fact is known to the supplier.*

#### 5.4.3.5. Establishing and operating transparent and user-friendly mechanisms for users to report or flag content – Article 28b (3) (d) AVMSD

Regarding the measure consisting in establishing and operating transparent and user-friendly mechanisms for users of a VSP to report or flag to the VSP provider the content referred to in Article 32, Article 19e para 6 of the RTA stipulates that:

*providers of video-sharing platforms shall determine appropriate measures to achieve the objectives of this Article according to the nature of the content concerned, the harm it may cause, the characteristics of the category of persons to be protected and the rights and legal interests at risk, including those of video-sharing platform providers, and users who have created or uploaded content, and in view of the audience interest.*

Article 19e (8) of RTA uses the language of the AVMSD and provides that measures may comprise:

*.... 2. transparent and easy-to-use mechanisms for the users of a video-sharing platform, through which to signal or warn the provider of the video-sharing platform regarding the content indicated in para. 1 provided on its platform.*



#### 5.4.3.6. Establishing and operating systems through which VSP providers explain to users what effect has been given to reporting and flagging – Article 28 (b) (3) (e) AVMSD

Regarding the measure consisting in establishing and operating systems through which VSP providers explain to users of VSPs what effect has been given to their reporting and flagging initiatives, the legislation, Article 19e (8) of the RTA stipulates the obligation just as text of AVMSD provide for, in terms of:

*3. systems through which the providers of video-sharing platforms explain to the users of these platforms what the results of the signals and warnings are.*

#### 5.4.3.7. Establishing and operating age verification systems for users with respect to content which may impair the physical, mental or moral development of minors – Article 28b (3) (f) AVMSD

Regarding the measure consisting in establishing and operating age verification systems for users of VSPs with respect to content which may impair the physical, mental or moral development of minors, Article 19e (8) of the RTA transposes this obligation verbatim:

*4. systems for verifying the age of users of video-sharing platforms in relation to content that may impair the physical, mental or moral development of children.*

#### 5.4.3.8. Establishing and operating easy-to-use systems allowing users to rate the content – Article 28b (3) (g) AVMSD

Regarding the measure consisting in establishing and operating easy-to-use systems allowing users of VSPs to rate the content, Article 19e (8) of the RTA transposes this obligation verbatim:

*5. easy-to-use systems that allow users of video-sharing platforms to evaluate the content according to paragraph 1.*

#### 5.4.3.9. Providing for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental or moral development of minors – Article 28b (3) (h) AVMSD

Regarding the measure consisting in providing for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental or moral development of minors, Article 19e (8) of the RTA transposes these obligations verbatim, as follows:



*...6. parental control systems which are controlled by end-users in respect of content which may impair the physical, mental or moral development of children.*

#### 5.4.3.10. Establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints – Article 28b (3) (i) AVMSD

Regarding the measure consisting in establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints to the video-sharing platform provider in relation to the implementation of the measures, the RTA, in Article 19e (8), transposes the obligations verbatim:

*...7. transparent, easy-to-use and effective procedures for reviewing and deciding on user complaints to the provider of a video-sharing platform in connection with the implementation of the measures referred to in items 2–6.*

#### 5.4.3.11. Providing for effective media literacy measures and tools and raising users' awareness of those measures and tools – Article 28b (3) (j) AVMSD

Regarding the measure consisting in providing for effective media literacy measures and tools and raising users' awareness of those measures and tools, the proposed legislation establishes these obligations in Article 19e (8) of the RTA by transposing the text of the revised AVMSD verbatim:

*... 8. effective measures and tools for media literacy and raising consumer's awareness of these measures and tools.*

#### 5.4.3.12. Forbidding the processing of personal data of minors for commercial purposes – Article 28b (3) AVMSD

Regarding the processing of personal data of minors collected or otherwise generated by video-sharing platform providers for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising, the RTA, in Article 19e (9), transposes the obligations verbatim and reads:

*The personal data of children, collected or received in another way by the providers of platforms for sharing videos according to para. 8, items 4 and 6, shall not be processed for commercial purposes such as direct marketing, profiling and behaviour-oriented advertising.*





#### 5.4.3.13. Other relevant provisions related to protection of minors

The Child Protection Act provides for various protective mechanisms related to minors, including the promulgation of the rights of a child, protection against violence and the exploitation of identity and personal data, etc.

#### 5.4.3.14. Other relevant provisions related to commercial communications which may impair the physical, mental or moral development of minors

Article 75 of the RTA provides for the obligations related to commercial communications which may impair the physical, mental or moral development of minors, and reads:

*(9) Commercial communications should not:*

- 1. create danger for the physical, mental, moral and/or social development of the children;*
- 2. directly persuade children to buy or rent a product or service, using their inexperience or credulity;*
- 3. encourage children to directly persuade their parents or others to purchase the advertised goods or services;*
- 4. abuse the special trust that children have in their parents, teachers or other persons;*
- 5. show children in dangerous situations for no reason.*

#### 5.4.3.15. Other relevant provisions related to minors' exposure to advertising for alcohol products and HFSS foods (high fat, sugar and salt foods) in commercial communications

These obligations are to be found in the following provisions of the RTA, which stipulate the self-regulatory mechanisms for the aforementioned commercial communications, as follows:

Article 76:

*(1) Media service providers shall prepare, as part of the codes of ethics under Article 4b, para 1, item 3, rules regarding inappropriate commercial communications accompanying or included in children's programmes for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular containing fats, trans-fatty acids, salt/sodium and sugar, whose excessive intake in diet is not recommended. The rules aim to effectively reduce the exposure of children to commercial communications for such food and beverages, and to ensure that these commercial communications do not highlight the positive qualities of the nutritional aspects of such food and beverages.*



*(2) Media service providers shall prepare as part of the code of ethics under Article 4b, para 1, item 3, rules regarding the inappropriate audio-visual commercial communications for alcoholic beverages. These rules aim to effectively reduce children's exposure to audiovisual commercial communications for alcoholic beverages.*

#### 5.4.3.16. Other relevant information

The RTA in Article 77 provides that:

*the dissemination of commercial communications containing pornography or inciting violence and disrespect for human dignity shall not be permitted, as well as the conduct that violates public order and generally accepted moral norms. Commercial messages with erotic content involving or intended for children are not allowed.*

Legislation including the Criminal Code and the Law on Protection against Discrimination regulate matters in relation to discrimination, incitement to discrimination, violence or hatred, treason, debauchery, pornographic materials, etc. as well as sanctions and penalties foreseen for committing these acts. The legislation in question stipulates the prohibition of propagating such acts through the press or other mass media, through electronic information systems or in any other way.

#### 5.4.4. Practicability of the measures imposed on VSP providers

Article 28b (3) of the revised AVMS Directive does not only provide for the list of measures which are detailed under the previous section. Paying attention to the principle of proportionality, it also states that the measures imposed on VSP providers should be practicable and proportionate and take into account criteria such as the size of the VSP service and the nature of the service, as well as the nature of the content.

This section aims at identifying how this is implemented in the national legislation.

Article 19e (6) of the RTA states that VSP providers shall determine appropriate measures, according to the nature of the content concerned, the harm it may cause, the characteristics of the category of persons to be protected, and the rights and legitimate interests at stake, including those of VSP providers and users who have created or uploaded the content, and in the interest of the audience. In paragraph (7), it further provides that the measures shall be applicable and proportionate, taking into account the size of the VSP service and the nature of the service provided, without further details. These measures cannot lead to preliminary control or filtering of uploaded content which is contrary to Article 17 of the E-commerce Act.



## 5.4.5. Regulation and enforcement

This section aims at identifying which body is in charge of regulatory and enforcement powers with regard to VSPs, as well as the scope of its activities with regards to such platforms. These relate to registration/notification systems of VSPs with the relevant national regulatory bodies, as well as with the development of self- or co-regulatory codes and schemes (as encouraged by Article 4a of the AVMS Directive), provisions related to out-of-court redress mechanisms for the settlement of disputes between users and video-sharing platform providers (as envisaged by Article 28(b)7 of the AVMS Directive) and provisions related to how users can assert their rights before a court in relation to video-sharing platform providers (as required by Article 28(b)8 of the AVMS Directive).

### 5.4.5.1. Regulatory body

The competent regulatory body for VSPs is the Council for Electronic Media (CEM).<sup>124</sup>

### 5.4.5.2. Existence of a registration/notification system

The registration system is envisaged in Article 19d in a manner which foresees the inclusion of the list of VSPs under Bulgarian jurisdiction in the CEM's public register, in a manner as envisaged by the AVMSD.

Article 19d:

*(1) The Council for Electronic Media shall maintain in its public register under Article 125k an updated list of providers of video-sharing platforms that are established or are considered to be established in the country and shall indicate which of the criteria set out in Article 1, 23a is based on their jurisdiction. The Council for Electronic Media shall inform the European Commission of the list and any updates thereto. Discrepancies between the list and the lists of other countries shall be settled in cooperation with the European Commission and the relevant national media regulatory authorities.*

The notification system is also envisaged for VSPs who intend to provide services, and who may request a certificate of notification to be issued to them. The system will also include a 14-day notification procedure for those who no longer wish to provide services. Specifically, the RTA, in its new Section VIII reads as follows:

Section VIII Video-Sharing Platform Services

*Article 125r. Persons who intend to provide services on video-sharing platforms shall notify the Council for Electronic Media pursuant to Article 125s.*

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<sup>124</sup> <http://www.cem.bg/>.



*(1) The persons under Article 125r shall submit to the Council for Electronic Media a notification in a form, which shall contain:*

- 1. identification data - name (company), seat and address of management and the respective unified identification code;*
- 2. Internet address (URL) of the video-sharing platform;*
- 4. territorial scope;*
- 5. telephone, fax, e-mail address, correspondence address and contact person;*
- 6. estimated date for starting the activity.*

*(2) The notification under para. 2 shall be submitted in Bulgarian.*

*(3) A draft of general conditions for use of the video-sharing platform shall be attached to the notification.*

*Article 125u. A service provider of a video-sharing platform may request in writing from the Chair of the Council for Electronic Media to issue a certificate of entry in the register.*

*(2) The Chairman of the Council for Electronic Media shall issue the certificate under para. 1 within 7 days from the receipt of the request.*

*Article 125s. (1) It is mandatory for the general conditions of the services of the video-sharing platforms to contain the following:*

- 1. identification data of the service provider on a video sharing platform - name, registered office and address of management;*
- 2. conditions for using the services of the video sharing platform;*
- 3. basic rights and obligations of the users of the services of the video sharing platform;*
- 4. description of the measures under Article 19d, para. 6 and 8;*
- 5. responsibilities and sanctions in case of non-fulfilment of the general conditions;*
- 6. conditions and procedure for restricting the access to content or to the services of the platform in case of violations by the users.*

*(2) In case of incompleteness of the notification under Article 125s, para. 1 within 7 days of its receipt, the Electronic Media Council shall notify the person in writing to eliminate the defects.*

*(3) In case the general conditions do not meet the requirements of this law, the Council for Electronic Media shall notify the person under Article 125q, giving instructions and time for elimination of the defects.*

*(4) The Council for electronic media shall enter the person in the register under Article 125k, para. 2, item 6 and shall coordinate the general conditions within 30 days from the date of the receipt of the notification or from the elimination of the incompleteness and defects by the order of para. 2 and 3.*

*(5) The General Terms and Conditions shall be published on the website of the service provider of video-sharing platforms, providing easy, direct and quick access to them.*



#### Article 125t

*(1) Amendments to the General Terms and Conditions could be made at the initiative of the service provider of a video-sharing platform or the Council for Electronic Media.*

*(2) Amendment of the general conditions on the initiative of the supplier shall be carried out by the order under Articles 125r and 125s.*

*(3) Amendments to the general conditions at the initiative of the Council for Electronic Media shall be made in order to ensure the interests of the consumers (the audience). In this case, the Council shall, by decision, give binding instructions to the provider on the relevant amendments.*

*(4) The changes in the general conditions shall enter into force after their coordination by the order of Article 127t, para. 4.*

#### Article 125u

*(1) Upon termination of the provision of services on the video-sharing platform, the provider within 14 days shall notify the Council for Electronic Media.*

*(2) Within 14 days the Electronic Media Council shall delete the provider in the respective register.*

#### Article 125v

*(1) A service provider of a video-sharing platform may request in writing from the Council for Electronic Media the issuance of a certificate for entry in the register.*

*(2) The Council for Electronic Media shall issue the certificate under para. 1 within 7 days from the receipt of the request.*

### 5.4.5.3. Compliance, enforcement and sanctioning powers

Compliance with the regulatory framework is entrusted to the CEM, and the RTA envisages its responsibilities over obligations with respect to VSPs. More precisely, according to Article 32 para. 1 item 16, it maintains a public register of

*... f) video-sharing platforms.*

The monitoring and sanctioning power of the CEM is amended to provide for this, as follows:

Article 32 para. 1 item 24: *supervises the providers of video-sharing platforms for observance of the requirements of this law, referring to their activity.*



#### 5.4.5.4. Development of self- or co-regulatory codes or schemes

In line with the text of the revised AVMSD, which puts strong emphasis on the development of self and co-regulatory schemes related to implementation of the obligations of VSPs, these mechanisms are further enhanced, unlike the previous system which did not put a lot of emphasis on these mechanisms.

After the amendments of the RTA, a new Article 4b is inserted in the General Provisions, Article 4b:

*(1) Self-regulation and co-regulation shall be encouraged through codes of conduct and standards, where appropriate and suitable. Codes of conduct and standards include, but are not limited to:*

- 1. Code of Ethics of the Bulgarian media, developed by the National Council for Journalistic Ethics Foundation;*
- 2. Uniform standard for regulation of audio levels in advertising, adopted in the industry;*
- 3. National ethical rules for advertising and commercial communication, developed by the National Council for Self-Regulation Association, in compliance with the Code of Conduct under Article 17a, paragraph 3;*
- 4. Other standards for implementation of Directive (EU) 2010/13, as amended by Directive (EU) 2018/1808.*

*(2) Codes of conduct and standards and their application must meet the following requirements:*

- 1. be widely accepted by key stakeholders;*
- 2. include clearly and unambiguously set goals;*
- 3. provide a mechanism for regular, transparent and independent monitoring and periodic evaluation of the achievement of the set goals;*
- 4. provide means for their effective observance, including the procedure for amendment and effective and proportional sanctions.*

*(3) The providers of media services shall be obliged to observe the provisions of the acts under para. 1.*

*(4) The providers of services on video-sharing platforms shall be obliged to observe the provisions of the National Ethical Rules under para. 1, item 3.*

*(5) Self-regulation is encouraged through codes of conduct drawn up by media service providers, video-sharing platform service providers or organisations representing them,*



*where appropriate in cooperation with other sectors, such as industry, trade, professional and consumer associations or organisations. These codes must be widely accepted by the main stakeholders of the Union and must comply with the requirements of para. 2, items 2-4. The Union codes of conduct shall not affect the application of national codes of conduct.*

*(6) If the Republic of Bulgaria exercises its freedom to adopt more detailed or stricter rules in accordance with Directive 2010/13/EU, as amended by Directive (EU) 2018/1808 and European Union law, and if the Council for Electronic Media considers that there is evidence of insufficient effectiveness of a code of conduct or parts of a code of conduct, the Council may require media service providers under their jurisdiction to comply with the relevant rules. The Council also informs the European Commission of the rules within one month.*

There is also a new obligation imposed on the Council for Electronic Media, namely, the new paragraph 8 of Article 32, which stipulates the following:

*(8) The Council for Electronic Media shall adopt a framework for effective joint regulation pursuant to Article 4b, para. 2 and monitors the compliance of the acts under Article 4b para. 1. Proceedings may also be instituted at the request of an interested person. Initiated compliance proceedings are terminated by a decision of the Council. In the event that the Council for Electronic Media finds non-compliance with the framework, media service providers and/or video-sharing platform providers shall not be liable to comply with the relevant act.*

Article 19e puts particular emphasis on the self-regulation of VSPs:

*(12) Self-regulation shall be encouraged through codes of conduct of the European Union according to Art. 4b. Providers of video-sharing platforms are encouraged to share best practices on codes of conduct in the area of co-regulation.*

The CEM also monitors the terms and conditions of VSPs. According to Article 125s:

*(1) The general conditions of the services of the video-sharing platforms must contain:*

- 1. identification data of the service provider on a video-sharing platform - name, registered office and address of management;*
- 2. conditions for using the services of the video-sharing platform;*
- 3. basic rights and obligations of the users of the services of the platform for sharing videos;*
- 4. description of the measures under Art. 19e, para 6 and 8;*
- 5. responsibilities and sanctions in case of non-fulfilment of the general conditions;*
- 6. conditions and procedure for restricting the access to content or to the services of the platform in case of violations by the users.*

*(2) In case of incompleteness of the notification under Article 125r, para. 1 within 7 days of its receipt, the Council for Electronic Media shall notify the person in writing to eliminate the incompleteness.*



*(3) In case the general conditions do not meet the requirements of this law, the Council for Electronic Media shall notify the person under Article 125q, giving instructions and a term for elimination of the shortcomings.*

*(4) The Council for Electronic Media shall enter the person in the register under Article 125k, para. 2, item 6 and shall coordinate the general conditions within 30 days from the date of receipt of the notification or from the elimination of the incompleteness and shortcomings by the order of para. 2 and 3.*

*(5) The General Terms and Conditions shall be published on the website of the service provider of video-sharing platforms, providing easy, direct and quick access to them.*

Article 125t further stipulates the role of the CEM in the obligations set forth for VSPs:

*(1) Amendments to the general terms and conditions may be made at the initiative of the service provider of a video-sharing platform or of the Council for Electronic Media. (...)*

*(3) Amendment of the general conditions at the initiative of the Council for Electronic Media shall be carried out in order to ensure the interests of the consumers (the audience). In that case, the Council shall, by decision, give binding instructions to the supplier on the relevant amendments.*

#### 5.4.5.5. Out-of-court redress mechanisms for users

Apart from the aforementioned verbatim transposition of the wording of the AVMSD in Article 19e(10) related to the protection of minors and the public against harmful content on VSPs in terms of reference to the “impartial settlement of disputes between suppliers and consumers through an out-of-court mechanism, without depriving consumers of the legal protection afforded by national law”, no specific procedures are envisaged. It should be added that a Mediation Act is in force in Bulgaria, envisaging alternative ways of resolving legal and non-legal disputes, but is still rarely implemented by interested parties in Bulgaria.

#### 5.4.5.6. Rights before a court for users

These measures are stipulated by the RTA, in Article 19e, as follows:

*(13) Notwithstanding the application of this law by the Council for Electronic Media, the users of video-sharing platforms may defend their rights before a court in respect of the providers of video-sharing platforms in accordance with para 1 and para 6-8.*





## 5.4.6. Studies, reports and research

The following report has been prepared in relation to the transposition of the revised AVMSD:

- Reasons for adoption of a draft law amending and supplementing the RTA, an explanatory report to the draft Law.<sup>125</sup>

## 5.4.7. Data compilation

This factsheet is based on data compiled by Dr. Bissera Zankova, a lawyer and Council of Europe expert and Assoc. Prof. Dr. Ivo Indzhov, Associate Professor of Journalism at St. Cyril and St. Methodius University, Veliko Tarnovo.

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<sup>125</sup> <http://mc.government.bg/page.php?p=141&s=737&sp=0&t=0&z=0>.