



5.6. CZ – Czechia – National legal summary¹³¹

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are transposed into the Act on Video-Sharing Platform Services, and on the amending of certain related laws (VSP Law).

5.6.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Act on Video-Sharing Platform Services, and on the amending of certain related laws (Zákon o službách platformem pro sdílení videonahrávek a o změně některých souvisejících zákonů)¹³²
- Broadcasting Act (Ustawy o radiofonii i telewizji)¹³³

5.6.2. Definitions and scope

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

Table 26. 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.

¹³¹ The factsheet on the Czech Republic incorporates the feedback received from Kateřina Lojíková from the Czech Council for Radio and TV Broadcasting (RRTV), during the 2021 and 2022 checking rounds with the national media regulatory authorities.

<https://www.psp.cz/sqw/sbirka.sqw?O=9&T=30>.

¹³³ <https://www.rrtv.cz/en/static/documents/act-231-2001/Act-on-RTV-broadcasting-reflecting-AVMSD.pdf>.



“Essential functionality”	Yes.
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Source: Czech response to European Audiovisual Observatory standardised survey

5.6.2.1. VSP service

Article 2(1) a) of the VSP Law defines a VSP service as the information society service of a VSP, as follows:

According to the Act on Certain Information Society Services, a video-sharing platform service is an information society service whose principal purpose, or principal purpose of its dissociable section, or whose essential functionality is devoted to providing programmes or user-generated video recordings, for which the video-sharing platform provider does not have editorial responsibility and only determines their arrangement, which can also be ensured by automated means or algorithms, in particular by displaying, tagging or sequencing to the general public in order to inform, entertain or educate via electronic communication networks.

5.6.2.2. VSP provider

Article 2(1) b) of the VSP Law defines the term “video-sharing platform provider” in a manner similar to the term “video-sharing platform service”, where the service is provided via VSPs. The definition, which lacks a distinction between a natural and a legal person (therefore covering both), is as follows:

A video-sharing platform provider refers to a person that provides a video-sharing platform service.

5.6.2.3. User-generated video

Article 2(1) e) of the VSP Law defines the term “user-generated video” again as recordings, as follows:

A user-generated video recording is a set of moving images with or without sound constituting an individual item of the audiovisual content organized on the platform, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user.

5.6.2.4. “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.



5.6.2.5. “Essential functionality” of a VSP service

The reference to “essential functionality” is derived from the aforementioned definition of a VSP in the aforementioned Article 2 (1) (a), which provides for it to mean an “information society service”, and further contains a provision relating to the notion of “essential functionality” in Article 2 (2), which should be interpreted in compliance with the guidance issued by the European Commission’s guidelines on video-sharing platforms.¹³⁴

5.6.3. 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 for other additional relevant information about the measures and concepts at stake.

5.6.3.1. General provisions

Prohibitions related to discrimination and incitement to hatred can be found in the Criminal Code. In relation to the protection of minors, the Broadcasting Act and the Video on Demand (VOD) Act still use the wording of the previous AVMSD and refer to content which is likely to or which may seriously impair the physical, mental or moral development of minors, without any further specification. This wording is used only in connection with the duties of the broadcaster/VOD provider.

Article 7 (1) (a), (b), (c) of the VSP Law imposes a duty on VSP providers to implement measures with the aim of:

- (a) protecting minors against content which may impair their development; such measures should ensure that minors will not normally see or hear such content and include, in particular, age verification tools or other technical measures;
- (b) protecting the public against content inciting to violence or hatred;

¹³⁴ [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0707\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0707(02)&from=EN).



(c) protecting the public against content whose dissemination is a criminal offence, in particular public incitement to commit an act of terrorism, crimes related to child pornography, and crimes related to racism and xenophobia.

5.6.3.2. Adapting terms and conditions of the VSP service to include these 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 5.6.3.1, Article 8 (3) (a) introduces these obligations, without further specifications.

5.6.3.3. 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, the VSP Law, in Article 8 (3) (b), introduces these obligations, without further specifications.

5.6.4.3. 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 8 (3) (c) of the VSP Law introduces these obligations, without further specifications.

5.6.3.5. 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 video-sharing platform to report or flag to the video-sharing platform provider the content referred to in Article 7 (1) of the VSP Law, Article 8 (3) (d) introduces these obligations, without further specifications.



5.6.3.6. 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, Article 8 (3) (e) of the VSP Law introduces these obligations on users' reporting relevant to the aforementioned paragraph 8 (3) (d), without undue delay and not later than 60 days following any reporting or designating as referred to in the aforementioned paragraph 8 (3) (d).

5.6.3.7. 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 8 (3) (f) of the VSP Law introduces these obligations, without further specifications.

5.6.3.8. 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 8 (3) (g) of the VSP Law introduces these obligations, in reference to content relating to that identified in Article 7 (1) of the VSP Law, including any content related to the protection of minors and protection against hatred, terrorist attacks, etc.

5.6.3.9. 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 8 (3) (h) of the VSP Law introduces these obligations, without further specifications.



5.6.3.10. 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 VSP provider in relation to the implementation of the measures, Article 8 (3) (i) of the VSP Law introduces these obligations, in relation to the implementation of the measures referred to in the aforementioned paragraphs 8 (3) (d) to 8 (3) (h), including information for platform users on the option to resolve a dispute out of court or as a consumer dispute filed with the Czech Trade Inspection pursuant to the Consumer Protection Act.

5.6.3.11. 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, Article 8 (3) (j) of the VSP Law introduces these obligations, without further specifications.

5.6.3.12. Forbidding 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 VSP providers for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising, Article 9 of the VSP Law stipulates that the personal data of minors collected or otherwise generated by VSP providers pursuant to the aforementioned Article 8 (3) (f) and 8 (3) (h) may not be processed for commercial purposes, in particular for direct marketing, profiling and behaviourally targeted advertising.

5.6.3.13. Other relevant provisions related to the protection of minors

The Criminal Act and the Data Protection Act provide for various protective mechanisms related to minors, including protection against violence, personal data abuse, etc.

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

Article 7 (1) (a) of the VSP Law provides that VSP providers shall take measures aimed at protecting minors against programmes, video recordings and commercial communication, which may impair their development and that such measures should ensure that minors



will not normally see or hear such content and include, in particular, age verification tools or other technical measures.

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

Article 4 (b) of the Act on the Regulation of Advertising stipulates that advertising for alcoholic beverages may not be aimed at individuals below 18 years of age, and in particular may not depict such individuals (or individuals who look like individuals below 18 years of age) consuming such beverages, and may not use elements, means or actions designed to appeal to such individuals.

Currently, there is no regulation related to HFSS foods and such regulation is not included in the VSP Law. However, these duties should apply to AVMS providers (not to VSP providers) via ethical codes within the self-regulatory mechanisms, and the relevant legislative proposal provides for this. The Advertising Standards Council is the relevant Czech self-regulatory body.

Furthermore, while self-regulatory mechanisms in relation to advertising products to minors exist for other media, they are currently not applicable to VSPs. The VSP Law does contain such obligations. In particular, Article 7 (1) (a) provides that VSP providers shall take measures aimed at protecting minors against programmes, video recordings and commercial communication, which may impair their development; such measures should ensure that minors will not normally see or hear such content and include, in particular, age verification tools or other technical measures. Article 7 (4) further provides that commercial communications for alcoholic beverages, which are marketed, sold or arranged by such VSP providers, must not be specifically aimed at minors. Article 7 (6) provides that commercial communications, which are marketed, sold or arranged by such VSP providers, must not physically, mentally or morally impair minors by:

- a) directly encouraging minors to purchase or lease products or services, exploiting their inexperience and credulity;*
- b) directly encouraging minors to persuade their parents or third persons to purchase promoted goods or services;*
- c) exploiting the special confidence which minors have with their parents, teachers or other persons; or*
- d) depicting minors in dangerous situations without a justified context.*

5.6.3.16. Other relevant information

Legislative acts, including the Criminal Code, cover issues such as: incitement to hatred against a group of persons or to suppression of their rights and freedoms (Article 356); the



support and endorsement of terrorism (Article 312e); the production and other involvement with child pornography (Article 192); defamation of a person's nation, race, ethnic or other group (Article 355). These acts constitute criminal liability and are considered as offences/crimes.

5.6.4. 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 8 (1) and (2) of the VSP Law refers to the obligatory measures for VSPs which 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, but the provisions do not contain any reference to *ex ante* control measures or upload filtering. Moreover, the provisions do not define the criteria mentioned in greater detail, other than to mention the harm the content may cause, the characteristics of the category of persons to be protected, the rights and legitimate interests at stake, including the interests of a VSP provider and platform users, and general public interest. These criteria are not defined; they will be applied by the Council for Radio and Television Broadcasting (RRTV). This has not yet been put into practice, but RRTV is expected to issue some guidance in the future.

5.6.5. Regulation and enforcement

This section aims at identifying which body is in charge of regulatory and enforcement powers with regards 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 VSP 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 VSP providers (as required by Article 28(b)8 of the AVMS Directive).



5.6.5.1. Regulatory body

The competent regulatory body to a certain extent is RRTV.¹³⁵

5.6.5.2. Existence of a registration/notification system

The VSP Law, in its Article 6 (2), envisages *a priori* notification and requires that a person intending to provide a VSP service should notify RRTV at least 15 days before the start of such provision of services. This provision also contains the information that has to be provided, including a description and evidence of the criteria establishing the jurisdiction of the Czech Republic over the service. The list of VSP providers is to be published on the RRTV website.

Pursuant to Article 14 of the VSP Law, persons that already provide VSP services are required to send notification to RRTV within 90 days following the entry into force of the legislation. Such notification should contain the same information as mentioned above, including a description of protection measures as required in the aforementioned Article 8 (4) of the VSP Law.

5.6.5.3. Compliance, enforcement and sanctioning powers

RRTV has the power to consider whether the protective measures applied by the VSP providers are sufficient and suitable. If RRTV concludes that the measures are not sufficient, it may request that such measures are implemented. If such measures are not implemented, RRTV may initiate administrative proceedings against the VSP provider and impose financial penalties.

Article 8 (4) of the VSP Law provides that any changes to protection measures must be notified to RRTV at least 15 days before new measures come into effect. RRTV shall assess whether the measures or the potential changes to them are appropriate and, if necessary, shall communicate its recommendations to the VSP provider. If there are “serious insufficiencies” in the measures, RRTV may send the VSP provider a request to remedy within a reasonable deadline. If such deadline is not met, administrative proceedings may be initiated and financial penalties can be imposed.

Any processing of the personal data of minors for commercial purposes falls under the jurisdiction of the Personal Data Protection Office.

¹³⁵ <https://www.rrtv.cz/cz/>.



5.6.5.4. Development of self- or co-regulatory codes or schemes

Article 5 (w) of the Broadcast Act in the amendment to the Broadcast Act (which is part of the VSP Law) provides that RRTV helps to develop self-regulation within the scope of its authority and cooperates with any self-regulatory body, if such cooperation is requested by a self-regulatory body. RRTV should publish on its website the list of self-regulatory bodies performing activities that fall within the scope of RRTV's authority.

Pursuant to Article 5 (x) of the Broadcasting Act, RRTV, at the request of self-regulatory bodies, issues statements and produces recommendations for the internal regulation of self-regulatory bodies, including details of the duties of TV broadcasters, retransmission operators, providers of AVMS on demand, and VSP providers, in particular in relation to the protection of minors against programmes which may impair their physical, mental or moral development.

Pursuant to Article 5 (y) of the Broadcasting Act, RRTV also issues implementing regulations in the field of radio and TV broadcasting, retransmission, the provision of VOD services, and the provision of VSP services.

It should also be noted that new self-regulatory organisation(s) will be established and RRTV will cooperate with these organisations. RRTV should support the development of organisations within the scope of its powers.

5.6.5.5. Out-of-court redress mechanisms for users

The VSP Law, in Article 8 (3) (i), provides that protection measures, where appropriate, include establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of platform users' complaints addressed to a VSP provider, including information for platform users on the option to resolve a dispute out of court or as a consumer dispute filed with the Czech Trade Inspection pursuant to the Consumer Protection Act.

Currently, users may seek the resolution of potential disputes as consumers under the Consumer Protection Act for consumer-related matters, but no other out-of-court redress mechanisms are available with respect to VSP services.

5.6.5.6. Rights before a court for users

The VSP Law, in Article 8 (5), provides that the right of platform users to file a civil action with a competent court related to disputes over the extent of the measures implemented by the VSP provider is not affected.



5.6.6. Studies, reports and research

N/A.

5.6.7. Data compilation

This factsheet is based on the 2021 data compiled by Antonín Hedrlín, Ph.D, Attorney at Law. The 2022 update data was compiled by Jaroslav Tajbr, Lawyer at Squire Patton Boggs.