



5.20. LV – Latvia – National legal summary²⁵¹

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are transposed into the Amendments to the Electronic Mass Media Law (EMML).

5.20.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Amendments to the Electronic Mass Media Law (Grozījumi Elektronisko plašsaziņas līdzekļu likumā).²⁵²

5.20.2. 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.

Table 40. Definition of the main concepts related to VSPs

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

Source: Latvian response to European Audiovisual Observatory standardised survey

²⁵¹ The factsheet on Latvia incorporates the feedback received from Māra Madara Lūse from the National Electronic Mass Media Council during the 2021 and 2022 checking rounds with the national media regulatory authorities.

²⁵² <https://likumi.lv/ta/id/318739-grozijumi-elektronisko-plassazinas-lidzeklu-likuma>.



5.20.2.1. VSP service

Article 1, Clause 34² of the EMLL provides a definition by transposing the wording of the revised AVMSD almost verbatim:

Video-sharing platform service – a service (or a dissociable section thereof), to which the editorial responsibility shall not be applied, and the principal purpose of an essential functionality of which is to offer informative, entertaining or educational broadcasts and user-generated videos for the general public through public electronic communications networks and the organisation of which is determined by the service provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.”

5.20.2.2. VSP provider

There is no definition of VSP provider in the EMLL.

5.20.2.3. User-generated video

The EMLL, in Article 1, Clause 12¹ provides a definition by transposing the wording of the AVMSD verbatim:

User-generated video – a set of moving images with or without sound constituting an individual item, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user.

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

As per EMLL, Section 1 (34.2), the principal purpose of an essential functionality of VSP service is to offer informative, entertaining or educational broadcasts and user-generated videos for the general public through public electronic communications networks and the organisation of which is determined by the service provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.

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

5.20.2.5. “Essential functionality” of a VSP service

Please see under 5.20.2.4.



5.20.3. 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.

5.20.3.1. General provisions

No legal definition of content inciting to violence or hatred is included either in the EMLL or in other laws. Neither is there any legal definition of content whose dissemination constitutes an activity which is a criminal offence under EU law. There is, however, a legal definition of “violence”²⁵³ in the Law on Protecting the Rights of Children: abuse – physical or emotional cruelty of any kind, sexual abuse, negligence or any other treatment which endangers or may endanger the health, life, development or self-respect of a child. The legal obligations of VSPs in this regard are found in Article 23² as follows:

Article 23² Audio and audiovisual commercial communication in the video-sharing platforms

(1) Video-sharing platform service providers perform relevant measures to protect the public from such programmes and user-generated videos and audiovisual commercial communication, where:

- 1) Content may harm the physical, mental or moral development of minors;*
- 2) Content may endanger public and which contains incitement to violence or hatred against any person or group of persons due to any reason mentioned in the Article 21 of the Charter of Fundamental Rights of the European Union or Article 14 of the European Convention on Human Rights;*
- 3) Distribution of the content is a criminal offence (public endorsement or justification of terrorism, public provocation to terrorism, distribution of material, which endorses, justifies or invites to terrorism, or threat to commit terrorism if there are grounds to believe that it may be implemented, or demonstration of such pornographic show or distribution of materials of pornographic character, which contain child pornography, public provocation to genocide, public endorsement of genocide, crime against humanity, crime*

²⁵³ Please note that the English translation of the law uses the term “abuse”, however, the Latvian term “vardarbība” (“violence”) is the same word as used in the EMLL and in the Criminal Law.



against peace or war crime, or endorsement, denial, justification or gross denigration of performed genocide, crime against humanity, crime against peace or war crimes, and actions, which are directed to incitement of national, ethnical, racial or religious hatred or conflicts.

The NEPLP adopted guidelines regarding Article 26 of the EMLL²⁵⁴ which states:

The programmes and broadcasts of the electronic mass media may not contain:

- 1) stories which accentuate violence...*
- 3) incitement to hatred or discrimination against a person or group of persons on the grounds of sex, race or ethnic origin, nationality, religious affiliation or faith, disability, age or other circumstances;*
- 4) incitement to war or the initiation of a military conflict.*

5.20.3.2. 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 obligations referred to in section 5.20.3.1, Article 23,² part 3 of the EMLL provides for these obligations while detailing all the issues for which VSPs need to develop codes of conduct, thereby encompassing all of the obligations stemming from Article 28b (3) of the revised AVMSD:

The video-sharing platform service providers have to develop a publicly available code of conduct, where they indicate the basic rules of operation, accepted rules of ethical activities, rules on unacceptable audio and audiovisual commercial communication, including such as directed to minors and which may adversely affect the psychological or physical development of minors. The code of conduct includes also rules, which refer to audio and audiovisual commercial communication, which is included in programmes directed to children, as well as before or after them, regarding food and drinks, which include foodstuffs and substances with certain nutritious value or physiological impact, especially such substances as fat, fatty acids, salt or potassium and sugar, the excessive use of which in food is not recommended. The video-sharing platform service providers publish the codes of conduct on their webpages.

²⁵⁴ NEPLP 11 March 2021 Guidelines “Vadlīnijas Elektronisko pārraidīšanas līdzekļu likuma 26. panta “Programmu veidošanas ierobežojumi” pirmās daļas piemērošanai.” Available in Latvian: https://www.neplpadome.lv/lv/assets/documents/Normative%20Akti/Vadl%C4%ABnijas_EPLL_26.pants_11.03.2021.pdf.



5.20.3.3. 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

Please see under 5.21.3.2.

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

Please see under 5.21.3.2.

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

Please see under 5.21.3.2.

5.20.3.6. 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

Please see under 5.20.3.2.

5.20.3.7. 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

Please see under 5.20.3.2.

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

Please see under 5.20.3.2.

5.20.3.9. 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

Please see under 5.20.3.2.



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

Please see under 5.20.3.2.

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

Please see under 5.20.3.2.

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

Please see under 5.20.3.2.

5.20.3.13. Other relevant provisions related to the protection of minors

The Law on the Protection of Children's Rights sets out the rights and freedoms of a child and the protection thereof. The Law on the Restriction of Pornography provides for restrictions on the distribution of pornographic materials, whilst also providing relevant definitions of such materials. Furthermore, the Criminal Law provides for criminal liability for various offences against the family and minors, including for violations in relation to the distribution of pornographic materials.

Article 24, paragraph 9 of the EMML states:

Audio and audiovisual works displaying physical or psychological violence, bloody or horror scenes, scenes relating to the use of narcotics and sexual acts or containing foul language may not be transmitted between the hours of 7.00 and 22.00.

Article 24, paragraph 10 of the EMML further states:

The electronic mass media shall not distribute audio and audiovisual works with content that may be harmful to the physical, mental and moral development of minors, unless they have been scheduled for a time other than that referred to in Paragraph nine of this Article, or the electronic mass media provides conditional access control. If conditional access control is not ensured, an acoustic warning shall be provided before such audiovisual works and they shall be specially marked with a visual symbol.



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

Article 36, part two, of the current EMML (the part that will not be amended) provides for protective measures relative to alcohol:

(1) [..].

(2) *The following provisions shall be observed when inserting audio and audiovisual commercial communications related to alcoholic beverages:*

- 1) they may not be aimed at minors, and minors shall not participate in them;*
- 2) the consumption of alcoholic beverages shall not be linked to enhanced physical performance or to driving;*
- 3) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;*
- 4) they shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;*
- 5) they shall not place emphasis on a high alcoholic content in alcoholic beverages;*
- 6) they shall not create the impression that the consumption of alcoholic beverages contributes towards social or sexual success.*

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

No additional obligations are foreseen in this respect, apart from those stemming from the aforementioned general provisions. However, only beer and wine may be advertised in audiovisual commercials, as stated in Article 36, paragraph 1 of the EMML.

5.20.3.16. Other relevant information

N/A.

5.20.4. 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.

No specific provision of the EMLL deals with this issue.

5.20.5. 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 to 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).

5.20.5.1. Regulatory body

The competent regulatory body for VSPs is the NEPLP.²⁵⁵

5.20.5.2. Existence of a registration/notification system

Article 23¹ of the EMLL provides for the NEPLP's obligation to establish and maintain a list of the VSPs which fall under Latvian jurisdiction, and reads:

[..]

(7) The National Electronic Mass Media Council creates and regularly updates the list of providers of video-sharing platform services, which are established or regarding which it may be considered that they are established in the territory of Latvia, and indicates on which criteria listed in parts two, three, four, or five of this Article its jurisdiction is based. The National Electronic Mass Media Council informs the European Commission on the list of providers of video-sharing platform services, including on all of its updates.

²⁵⁵ <https://www.neplpadome.lv/>.



5.20.5.3. Compliance, enforcement and sanctioning powers

The legal framework of the role of the NEPLP with respect to VSPs is provided in the EMLL, Article 23,¹ as follows: “The assessment of the compliance of a service with the substance of video-sharing platforms in the understanding of this law is made by the National Electronic Mass Media Council.”

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

No specific provision of the EMLL deals with this issue. However, the current EMLL provides for a self-regulatory measure by requesting sight of the codes of conduct pertaining to all electronic mass media. An already existing self-regulatory body is the Latvian Media Ethics Council, whose activities are based on a media ethics code that protects media values such as freedom of expression, diversity of information and views, editorial independence, media credibility, etc.

Article 23,² paragraph 3 of the EMLL states:

The video-sharing platform service providers have to develop a publicly available code of conduct, where they indicate the basic rules of operation, accepted rules of ethical activities, rules on unacceptable audio and audiovisual commercial communication, including such as directed to minors and which may adversely affect the psychological or physical development of minors. The code of conduct includes also rules, which refer to audio and audiovisual commercial communication, which is included in programmes directed to children, as well as before or after them, regarding food and drinks, which include foodstuffs and substances with certain nutritious value or physiological impact, especially such substances as fat, fatty acids, salt or potassium and sugar, the excessive use of which in food is not recommended. The video-sharing platform service providers publish the codes of conduct on their webpages.

5.20.5.5. Out-of-court redress mechanisms for users

No specific provision of the EMLL deals with this issue.

5.20.5.6. Rights before a court for users

No specific provision of the EMLL deals with this issue, but nothing prevents users from asserting their rights before a court.



5.20.6. Studies, reports and research

N/A.

5.20.7. Data compilation

This factsheet is based on data compiled by Ieva Andersone, Attorney-at-Law.