



5.28. SI – Slovenia – National legal summary³²³

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

5.28.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Law on Audiovisual Media Services Act (Zakon o avdiovizualnih medijskih storitvah).³²⁴

5.28.2. 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 48. 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.

³²³ The factsheet on Slovenia incorporates feedback received from Igor Žabjek, Head of the Monitoring Department at the Agency for Communication Networks and Services of the Republic of Slovenia (AKOS), during the 2021 and 2022 checking rounds with the national media regulatory authorities.

³²⁴ <http://pisrs.si/Pis.web/preledPrepisa?id=ZAKO6225>.



“Essential functionality”	No.
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Source: Slovenian response to European Audiovisual Observatory standardised survey

5.28.2.1. VSP service

Article 3 (3) of the AVMS Law provides for the definition of a VSP service by transposing the text of the revised AVMSD verbatim, whilst also making references to the EC guidelines on VSPs:³²⁵

Video-sharing platform service means a service as defined in Articles 56 and 57 TFEU where the principal purpose of the service, or a separable part of it, or an essential function of the service is the provision of user-generated programme content or videos, for which the platform provider does not have editorial responsibility, to the general public for information, entertainment or education by means of electronic communications networks as defined by the law governing electronic communication networks. The provider of the video-sharing platform shall organise the programme content and videos by displaying, tagging, or sorting, which may also be carried out by means of automated tools or algorithms. In case of doubt as to whether the provision of programme content or videos constitutes an essential function of the service, the European Commission guidelines governing the practical application of the essential function criterion to video-sharing platform services shall be taken into account.

5.28.2.2. VSP provider

Article 3 (9) of the AVMS Law defines the term “video-sharing platform provider”, by transposing the revised AVMSD verbatim, as follows: “A provider of a video-sharing platform is a natural or legal person who offers a video-sharing platform service.”

5.28.2.3. User-generated video

The AVMS Law, in Article 3 (5) provides for this definition by transposing the revised AVMSD verbatim, as follows:

User-generated video means a set of moving images, with or without sound, representing a single unit of any length, created by a user and uploaded by that user or another user to a video-sharing platform.

³²⁵ [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).



5.28.2.4. “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, except for references made to the aforementioned EC guidelines on VSPs.

5.28.2.5. “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 except for the references made to the aforementioned EC guidelines on VSPs.

5.28.3. Obligations and measures imposed on VSP providers

The revised AVMSD provides for the extension of its scope to cover VSPs. It introduces obligations for 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.

5.28.3.1. General provisions

Provisions relative to public incitement to hatred, violence or intolerance, as well as child pornography are to be found in the Criminal Code, Media Law, and AVMS Law. The AVMS Law prohibits such content, which under Article 110 states the following:

(1) Whoever incites commitment of criminal offences under Article 108 of this Penal Code and therefore propagates messages or makes them available to other persons in some other manner with the intention to promote terrorist criminal offences and thus causes danger that one or more such criminal offences would be committed, shall be sentenced to imprisonment between one and ten years.

(2) Whoever directly or indirectly publicly glorifies or advocates criminal offences under Article 108 or the criminal offence referred to in the preceding paragraph by, with the



purpose under preceding paragraph, propagating messages or making them available to the public and therefore cause danger that one or more such criminal offences would be committed, shall be punished in the same manner.

(3) Persecution for criminal offences under preceding paragraphs shall be initiated with the permission by the Minister of Justice.

In addition, regarding incitement to hatred, violence or intolerance, the Criminal Code (under Article 297) states (*inter alia*) the following:

(1) Whoever publicly provokes or stirs up ethnic, racial, religious or other hatred, strife or intolerance, or provokes any other inequality on the basis of physical or mental deficiencies or sexual orientation, shall be punished by imprisonment of up to two years.

(2) The same sentence shall be imposed on a person who publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activity or denies, diminishes the significance of, approves, disregards, makes fun of, or advocates genocide, holocaust, crimes against humanity, war crime, aggression, or other criminal offences against humanity.

(3) If the offence under preceding paragraphs has been committed by publication in mass media, the editor or the person acting as the editor shall be sentenced to the punishment, by imposing the punishment referred to in paragraphs 1 or 2 of this Article, except if it was a live broadcast and he was not able to prevent the actions referred to in the preceding paragraphs.

Article 9 of the AVMS Law stipulates:

The following shall be prohibited through audiovisual media services:

- inciting violence or hatred against a group of persons or a member of such a group on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age, sexual orientation or nationality;*
- inciting to commit the offences of terrorism, travel abroad for the purpose of terrorism, financing terrorism, incitement to and public glorification of terrorist acts, recruitment and training for terrorism and smuggling in support of terrorist activity;*
- affect respect for human dignity.*

In the AVMS Law, under Article 38b, the obligations of VSP services stipulate:

- 1) Providers of video-sharing platforms under the jurisdiction of the Republic of Slovenia shall take appropriate measures to protect:*
 - children from programmes, videos and audiovisual commercial communications which may harm their physical, mental or moral development;*



- *the general public against programmes, videos and audiovisual commercial communications which incite violence or hatred towards a group of persons or a member of such a group on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, nationality, membership of a national minority, property, birth, disability, age or sexual orientation;*
- *the general public against programmes, videos and audiovisual messages the dissemination of which constitutes the offence of incitement to and public glorification of terrorist acts, the offence of displaying, producing, possessing and transmitting pornographic material or the offence of public incitement to hatred, violence and intolerance.*

5.28.3.2. 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 VSP services the requirements referred to in Article 38b of the AVMS Law, Article 38b(2) requires VSP providers to draw up and make public sets of rules³²⁶.

- (2) *Providers of video-sharing platforms shall draw up and make public rules setting out:*
- a prohibition on the publication of videos that contravene the provisions of the preceding paragraph;*
 - the possibility of lodging a complaint for violation of those rules;*
 - the procedure for dealing with reports of breaches of the rules;*
 - measures to remove illegal content or to stop its dissemination;*
 - the procedure for handling complaints against the measures referred to in the previous indent.*

5.28.3.3. 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 38.č (2) requires that VSPs ensure that the applicable laws are respected in the following manner:

- (2) Providers of video-sharing platforms shall, to the best of their ability, take appropriate measures to ensure that audiovisual commercial communications which they do not themselves market, sell or edit comply with the requirements of Articles 19 to 22 of this Act. They shall include those requirements in the general conditions applicable to the video-sharing platform.

³²⁶ It can be assumed that “terms and conditions” are equivalent to the making public of various sets of “rules”.



5.28.3.4. 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 38.č (3) states:

(3) Providers of video-sharing platforms shall clearly inform users where programmes and videos created by users contain audiovisual commercial messages, if such messages are reported. Platform providers shall provide a function whereby users who upload videos to the platform can, if they are aware of it or can reasonably be expected to be aware of it, declare whether those videos contain audiovisual commercial communications.

5.28.3.5. 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, this is provided for in paragraph 2 of Article 38.b of the AVMS Law which stipulates:

(2) Providers of video-sharing platforms shall draw up and make public rules setting out:
- the possibility of lodging a complaint for violation of those rules;
- the procedure for dealing with reports of breaches of the rules;
(3) The system for submitting the application referred to in the preceding paragraph must be transparent and user-friendly. The applicant must be given appropriate and timely explanation of how his/her appeal has been resolved.

5.28.3.6. 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

Not specifically mentioned, but may become a part of the future rules regarding reporting of violations, which have not yet been developed.



5.28.3.7. 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 38.b (7) of the AVMS Law stipulates that:

- (7) *The measures to ensure the implementation of the provisions of the first indent of paragraph 1 of this Article shall include, in particular:*
- *the establishment and management of a system for verifying the age of users of video-sharing platforms.*

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

N/A.

5.28.3.9. 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 38.b (7) of the AVMS Law states:

- (7) *The measures to ensure the implementation of the provisions of the first indent of paragraph 1 of this Article shall include, in particular:*
- *the provision of a parental control system operated by the end user.*

5.28.3.10. 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 referred to in general provisions, Article 38.b (2) and (3) stipulates that:

- (2) *Providers of video-sharing platforms shall draw up and make public rules setting out:*
- *a prohibition on the publication of videos that contravene the provisions of the preceding paragraph;*
 - *the possibility of lodging a complaint for violation of those rules;*



- the procedure for dealing with reports of breaches of the rules;
- measures to remove illegal content or to stop its dissemination;
- the procedure for handling complaints against the measures referred to in the previous indent.

(3) The application submission system from the previous paragraph must be transparent and user-friendly. The applicant must be informed in writing about how his application was resolved no later than 15 days after submitting the application.

5.28.3.11. 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, media literacy is not specifically addressed in the context of obligations on VSPs.

The law contains a general Article regarding media literacy under Article 11a:

Article 11a (media literacy)

- (1) The Republic of Slovenia shall support, with funds from the budget line of the Ministry responsible for the media, measures aimed at encouraging, promoting, and developing media literacy. The procedures for the selection of measures shall be carried out in accordance with the law governing the pursuit of the public interest in the field of culture.
- (2) In order to protect the end users of electronic media, the Agency shall, by implementing media literacy projects in the areas it regulates within the scope of its competence, raise awareness among population of the Republic of Slovenia for the competent and responsible use of electronic media.

5.28.3.12. 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 VSP providers for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising, the AVMS Law, in Article 38.b (8) states:

Data collected or otherwise generated by video-sharing platform providers on the basis of the measures referred to in this Article may only be processed for the purpose of verifying the age of the users.

5.28.3.13. Other relevant provisions related to the protection of minors

Article 10 of the AVMS Law sets down basic principles of the protection of children and minors, whereas the secondary legislative General Act on the protection of children and



minors in television programming and on-demand audiovisual media services defines the programme content that could seriously harm the physical, mental or moral development of children and minors and the programme content that may harm the development of children and minors, and determines the level of protection for the programme content defined in the Act and guidelines for its broadcasting, including categorisation obligations.

Article 42 of the draft AVMS law stipulates that:

B) Within six months after adoption of the Act, AKOS shall harmonise the following general acts with the provisions of this Act:

...

- General Act on the Protection of Children and Minors in Audiovisual Media Services against potentially harmful content;

...

C) Within six months after adoption of the Act, the ministry responsible for the media shall harmonise the following rules with the provisions of this Act:

- Rules on determining the acoustic and visual warning and visual symbol for programme content that is not suitable for children and minors.

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

The AVMS Law, in Article 21, provides for the protection of minors relative to audiovisual commercial communications which must not cause physical, mental or moral harm to minors. Very detailed rules on this are provided in the Advertising Industry's self-regulatory code.

Article 38b, furthermore, provides for the obligation of VSPs to take appropriate measures to protect children from (programmes, videos and) audiovisual commercial communications which may harm their physical, mental or moral development.

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

The AVMS Law briefly addresses alcohol, by stipulating it to be subject to regulations governing the restriction of these products. It is currently regulated under a health law, which is rather out of date, so this aspect of the revised AVMSD has not yet been considered.

The AVMS Law, in Article 23, defines and regulates HFSS foods. The article places an obligation on audiovisual media services to draw up rules of conduct concerning



inappropriate commercial communications of these foods accompanying or forming part of programme content aimed at children, and to make these rules public. There is no mention of VSPs in relation to this issue in the Law.

5.28.3.16. Other relevant information

Article 44 of the AVMS Law stipulates that:

(2) Within six months after adoption of the Act, AKOS shall harmonise the following general acts with the provisions of this Act:

...

- General Act on Product Placement and Sponsorship.

5.28.4. 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 38č of the AVMS Law relating to commercial communications on video-sharing platforms but also to the protection of children and the general public from harmful and illegal content, stipulates the following:

4) In order to comply with the requirements laid down in this Article and the requirements laid down in Article 38b(1) of this Act relating to audiovisual commercial communications, providers of video-sharing platforms shall choose appropriate measures taking into account the nature of the content concerned, the harm it may cause, the characteristics of the categories of persons to be protected, and the rights and legitimate interests of the providers of video-sharing platforms, the users who have created or uploaded the content to the platform and the general public interest. The measures must be feasible and proportionate, taking into account the scope of the video-sharing platform service and the nature of the services offered. The measures referred to in this Article shall not lead to prior control measures or filtering of content when uploaded to the platform which are incompatible with the law governing electronic commerce on the market.



5.28.5. 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 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).

5.28.5.1. Regulatory body

The competent regulatory body for VSPs is the Agency for Communication Networks and Services (AKOS).³²⁷

5.28.5.2. Existence of a registration/notification system

Under Article 36 of the AVMS Law VSP providers are obliged to notify AKOS of its service, including provision of relevant information, and a 14-day notification of changes to services.

5.28.5.3. Compliance, enforcement, and sanctioning powers

There is no specific reference in the legislation as to the role of AKOS in assessing the adequacy of the measures taken by VSPs. AKOS has monitoring powers in relation for VSP's obligation to keep recordings of videos and commercial communication, and supply the regulator with recordings of content subject to complaint, under Article 40, as well as to request any information necessary for the exercise of its regulatory competencies, under Article 41 of the AVMS Act.

In April 2022, AKOS launched a consultation on a Draft General Act on the methodology for the supervision of audiovisual media services, radio programs and video sharing platforms.³²⁸ This draft act provides in more details for methods for determining compliance with requirements and restrictions stemming from the AVMS Law, also by VSPs.

³²⁷ <https://www.akos-rs.si/>.

³²⁸ https://www.akos-rs.si/fileadmin/user_upload/Osnutek_Splosnega_akta_o_metodologiji_nadzorstva_avdiovizualnih_medijskih_sto_ritev_radijskih_programov_in_platform_za_izmen.pdf?x_tr_sl=sl&x_tr_tl=en&x_tr_hl=en&x_tr_pto=wapp



As regards sanctions, these are applied by AKOS and detailed in Articles 43 to 45 of the Law and include financial fines – including for VSPs which "fail to take protection measures in accordance with the first paragraph of Article 38b of this Act or the fourth paragraph of Article 38c of this Act or fails to formulate and publish rules in accordance with the second paragraph 38 .b of this Act (first and second paragraphs of Article 38.b and fourth paragraph of Article 38.c)".

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

In Slovenia, there are no co-regulatory measures relevant to the protection of minors, or to VSPs. As mentioned above, rules of conduct are mentioned in relation to HFSS foods, but without reference to VSPs.

Self-regulatory measures, such as those introduced by the Slovenian Advertising Chamber, cover a range of issues, including the protection of minors, etc.

5.28.5.5. Out-of-court redress mechanisms for users

The AVM Law, in Article 38.c, stipulates the measures relative to out-of-court dispute resolution between users and providers of VSPs, by providing the possibility for users to file complaints with AKOS and the relevant procedure:

- (1) *If the provider of the video-sharing platform does not satisfy the user's complaint regarding the measures referred to in the previous Article, the user has the right to submit a proposal for resolving the dispute before the Agency.*
- (2) *If any party initiates litigation before the competent court during the dispute resolution procedure before the Agency or withdraws the request for dispute resolution, the dispute resolution procedure before the Agency shall be suspended.*
- (3) *The user may submit a proposal for resolving the dispute before the Agency no later than 15 days from the day when he received a reply from the video-sharing platform provider that he would not uphold his complaint, or within 15 days from the deadline referred to in the fifth paragraph.*
- (4) *The Agency shall endeavour to resolve the dispute in the mediation procedure by using mediation techniques and finding an amicable solution in the shortest possible time, but no later than two months from the introduction of the dispute resolution procedure. If an amicable settlement of the dispute between the user and the provider of the video-sharing platform is not possible, the Agency shall continue the procedure and decide on the dispute by an administrative decision.*
- (5) *The Agency shall issue the decision referred to in the preceding paragraph as soon as possible, but no later than within four months from the initiation of the dispute resolution procedure.*
- (6) *If the Agency sends a proposal for an amicable settlement prepared by the other party to the applicant, but the applicant does not respond within the set deadline, it shall be deemed that an amicable settlement of the dispute is not possible and shall decide on the dispute.*



The Agency must warn the applicant of the dispute resolution of the consequences if he does not respond to the submitted proposal for an amicable settlement of the dispute within the specified time limit.

(7) If the applicant for resolving the dispute does not appear at the oral hearing, even though he was duly summoned, and does not respond to the received minutes of the oral hearing within the specified time limit, the request shall be deemed to have been withdrawn. The Agency must warn the applicant of the dispute resolution of the consequences if he does not respond to the submitted minutes within the specified time limit.

(8) In the dispute resolution procedure, the Agency shall apply the provisions of the law governing the general administrative procedure, unless otherwise provided by this Act. The Agency shall specify the rules on out-of-court settlement of disputes between users and providers of video-sharing platforms in a general act.

(9) In the dispute settlement procedure, each party shall bear its own costs.”

In February 2022, the AKOS prepared a draft General Act on out-of-court settlement of disputes between users and providers of video sharing platforms and launched a consultation on the document.³²⁹

5.28.5.6. Rights before a court for users

In Article 38.c of the AVMS Law, the rights of users before the court are taken into account, as well:

“(2) If any party initiates litigation before the competent court during the dispute resolution procedure before the Agency or withdraws the request for dispute resolution, the dispute resolution procedure before the Agency shall be suspended.”

5.28.6. Studies, reports and research

N/A.

5.28.7. Data compilation

This factsheet is based on data compiled by Deirdre Kevin, Consultant with Commsol Ltd.

³²⁹<https://www.akos-rs.si/javna-posvetovanja-in-razpisi/novica/poziv-zainteresirani-javnosti-postopek-sprejemanja-splosnega-akta-o-izvensodnjem-resevanju-sporov-med-uporabniki-in-ponudniki-platform-za-izmenjavo-videoov>