



5.29. SK – Slovakia – National legal summary³³⁰

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing (VSPs) are transposed into the Media Service Act 2022 (MSA).

5.29.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Media Service Act 2022.³³¹

Secondary legislation:

- Decree of the Ministry of Culture of the Slovak Republic setting out details on a single labelling system for audiovisual works, audio recordings of artistic performances, multimedia works, programmes and other components of programme services, and on the means of its application (Vyhláška č. 589/2007 Z. z., ktorou sa ustanovujú podrobnosti o jednotnom systéme označovania audiovizuálnych diel, zvukových záznamov umeleckých výkonov, multimediálnych diel, programov alebo iných zložiek programovej služby a spôsobe jeho uplatňovania).³³²

5.29.2. 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.

³³⁰ The factsheet on Slovakia incorporates the feedback received from Stanislav Matějka from the Office of the Slovak Council for Broadcasting and Retransmission during the 2021 and 2022 checking rounds with the national media regulatory authorities."

³³¹ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=513882>.

³³² <https://www.law-reg.org/legislativa/predpisy/vyhlasaka-c-589-2007-z-z-ktorou-sa-ustanovuju-podrobnosti-o-jednotnom-systeme-oznacovania-audiovizualnych-diel-zvukovych-zaznamov-umeleckych-vykonov-multimedialnych-diel-programov-alebo-inych-zloziek-programovej-sluzby-a-sposobe-jeho-uplatnovania>.



Table 49. 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: Slovakian response to European Audiovisual Observatory standardised survey

5.29.2.1. VSP service

Article 45 (1) of the MSA defines the term “video-sharing platform” by transposing the text of the revised AVMSD verbatim, as follows:

- (1) A video sharing platform is a service*
- a) which is primarily of an economic nature,*
 - b) whose principal purpose or the purpose of its severable part or whose principal function is to provide programs or videos created by users of the general public for which the provider of the video-sharing platform is not responsible,*
 - (c) in which the organization of the user-generated programs or videos provided is determined by the provider of the video-sharing platform, including through automatic means or algorithms, in particular through display, tagging and organization;*
 - (d) which is provided via a telecommunications network; and*
 - (e) the main purpose of which is to inform, entertain or educate the general public.*

5.29.2.2. VSP provider

Article 9 (3) of the MSA defines the term “video-sharing platform provider” by transposing the text of the revised AVMSD verbatim, as follows:

Video-sharing platform provider is a person who provides a content sharing platform and determines the manner of its organization and promotion of disseminated content for the purpose of making a profit.



5.29.2.3. User-generated video

Article 8 (3) of the MSA defines the term “user-generated content” by transposing the text of the revised AVMSD verbatim, as follows:

A user-created video is a set of moving images with or without sound that, regardless of its duration, is a separate item created by a user and uploaded to the video-sharing platform by that user or any other user.

5.29.2.4. “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.

5.29.2.5. “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.

5.29.3. 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 will also provide for other additional relevant information about the measures and concepts at stake.

5.29.3.1. General provisions

Legislation defining the various forms of violence or hatred includes the Constitution and the Criminal Code, which provide for a more detailed specification of crimes inciting violence or hatred, extremism, etc. The MSA also contains the legal definition of content inciting violence or hatred and specifications of measures for the protection of human



dignity and humanity in individual audiovisual media content, the protection of minors and commercial communications.

Further, the decree of the Ministry of Culture of the Slovak Republic sets out details of a single labelling system for audiovisual works, including for content which incites violence or hatred.

Obligations for VSPs are provided in Article 48, Paragraph 1 (a), (b), (c), which stipulates that the video-sharing platform provider is obliged to take appropriate protection measures for:

- *programs, user - generated videos and commercial media communications that may impair the physical, mental or moral development of minors.*
- *programs, user - generated videos and commercial media communications that promote violence or incitement, hatred, or defamation based on gender, race, color, language, religion and belief, political or other opinion, property, disability, age, sexual orientation, birth, national or social origin, genetic characteristics, nationality, nationality or ethnic group.*
- *programs, user - generated videos and commercial media communications that contain evidence of the crime of the dissemination of child pornography, publicly incite or commit a criminal offense of terrorism, contain evidence of the crime of humanity, extremism or war crimes.*

5.29.3.2. 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 48 (1) of MSA, Article 49 (1) a) requires VSP providers to:

include the rules under Article 48 in the conditions of use of the video sharing platform and ensure their application.

5.29.3.3. 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 51 of MSA stipulates:

- (1) *The video sharing platform provider is subject to the obligations listed in § 72 par. 2, § 73, § 74, § 75 par. 1 and 3, § 76, § 77 par. 1 and § 78.*
- (2) *The provider of the video sharing platform is obliged to clearly inform the end users that the program or video created by the user contains media commercial communication, if it is*



aware of this fact or if this fact has been communicated to it in accordance with § 49 par. 1 letter b).

5.29.3.4. 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 49 (1) b) of MSA states:

b) ensuring the existence of a function for users who upload user-generated videos to indicate whether these videos contain media commercial communication, if they know about it or if they can reasonably be expected to know about it.

5.29.3.5. 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, Article 49 (1) c) of MSA states:

c) establishing and operating a transparent and user-friendly mechanism through which users will be able to report or tag the content referred to in § 48 par. 1, which is provided on the video sharing platform.

5.29.3.6. 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 what effect has been given to reporting and flagging, Article 49 (1) d) of MSA states:

d) establishing and operating a system informing the user of the effect of his reporting or flagging of content according to letter c).



5.29.3.7. 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 49 (1) i) of the MSA states:

i) establishing and operating a system for verifying the age of users, in connection with content that may impair the physical, psychological or moral development of minors

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

Regarding the measure consisting in 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 49 (1) e) of the MSA states:

e) establishing and operating a user-friendly system enabling the user to rate the content referred to in § 48 par. 1.

5.29.3.9. 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 49 (1) h) of the MSA states:

h) provision of a parental control system controlled by the user to control content that may disrupt the physical, psychological or moral development of minors.

5.29.3.10. 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 49 (1) f) of the MSA states:



f) establishing and operating a transparent, user-friendly and effective procedure for handling and resolving user complaints, with regard to the implementation of the measures listed in letters c) to e), h) and i).

5.29.3.11. 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 49 (1) g) of the MSA states:

g) ensuring effective measures and tools in the field of media literacy and increasing user awareness of those measures and tools.

Users' awareness and media literacy measures are addressed in the National concept of child protection in the digital space³³³ and the Action plan for 2020–2021 based on this National concept of child protection in the digital space.³³⁴

5.29.3.12. 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 MSA does not contain specific provisions in this regard. Data protection is regulated under Act no. 18/2018 on personal data protection and amending and supplementing certain acts, including rules on processing of personal data for the purposes of direct marketing.

5.29.3.13. Other relevant provisions related to the protection of minors

The legal definition and provisions relative to content that may disrupt the physical, mental or moral development of minors are also contained in the media legislation, in the MSA, the decree of the Ministry of Culture setting out details of a single labelling system, the Act on Audiovisual, the directive on the prevention and solution of bullying of children and pupils in schools and school facilities, as well as the Criminal Code.

³³³ https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/narodna-koncepcia-ochrany-deti-v-digitalnom-priestore-1.pdf.

³³⁴ https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/akcny-plan-na-roky-2020-2021-1.pdf.



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

N/A.

5.29.3.15. 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 MSA, in Article 127 (3) encourages self-regulation, in particular regarding “*inappropriate commercial communication*” that relates to alcoholic beverages or accompanies programs intended for children or is featured in them, and relates to HFSS foods and drinks. Under the MSA, as well as the Act No. 147/2001 on, commercial communications for alcoholic beverages may not target minors. At present, there is no legislative regulation that would prohibit the advertising of HFSS products. The only exception concerns schools, for which the Ministry of Education has issued a written instruction not to allow the advertising of HFSS products in school buildings. Monitoring of compliance with this guideline is the responsibility of the Public Health Office.

5.29.3.16. Other relevant information

N/A.

5.29.4. 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.

The legislation does not provide for these criteria.

5.29.5. 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 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 VSP providers (as required by Article 28(b)8 of the AVMS Directive).

5.29.5.1. Regulatory body

The competent regulatory body for VSPs is the “Media Services Council”, the name under which the regulator will be referred to instead of the previous “Council for Broadcasting and Retransmission” (RVR).³³⁵ The regulator, in cooperation with the Ministry of Culture of the Slovak Republic has the mandate to establish the obligations for VSPs.

5.29.5.2. Existence of a registration/notification system

Under the MSA (Articles 186-188), VSPs are obliged to register with the regulator for the provision of its services.

5.29.5.3. Compliance, enforcement and sanctioning powers

According to Article 110 (1) g) of the MSA, the regulator’s competence in the area of state administration also includes decision-making in matters of assessing the suitability of measures taken by the provider of the video-sharing platform submitted to the regulator. The regulator is also responsible for cooperating with online content-sharing platforms in the effective, proportionate and non-discriminatory application of the rules for the provision of its services. The regulator may impose a fine on the operator of the content-sharing platform ranging from € 2,500 to € 100,000 if it has not removed the harmful content or prevented its further dissemination (Article 144).

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

The MSA provides for the possibility of co-regulation. In that regard, Article 127 stipulates:

(2) Supervision of compliance with obligations under this Act may also be carried out through a code enforced by a self-regulatory body and registered by the regulator in the register or published by the Commission.

³³⁵ <http://rvr.sk/>.



According to Article 130 of the MSA, the regulator does not act on a matter decided by a self-regulatory body entered in the records. The regulator may initiate proceedings if the decision of the self-regulatory body is in a clear manifest violation of the Code or the Act or the sanction imposed by it is manifestly disproportionate. If the regulator has initiated proceedings in the matter of compliance with obligations under the MSA against the content service provider, which is bound by the relevant code, the proceedings shall be suspended for a period pending the decision of the self-regulatory body. If the self-regulatory body does not make a decision and does not notify the regulator of its decision within 90 days of the commencement of proceedings before the regulator or if the self-regulatory body decides in clear violation of the Code or the Act or the sanction imposed by it is manifestly disproportionate, the time limits for the imposition of a sanction by the regulator pursuant to MSA shall not expire during the suspension of the proceedings.

According to Article 130 of the MSA 2022 the self-regulatory body is entitled to decide on complaints against the content service provider within the scope of its competence. The procedural rules for proceedings before a self-regulatory body are regulated directly by the self-regulatory body.

5.29.5.5. Out-of-court redress mechanisms for users

Pursuant to Article 52 of the MSA, disputes between the users and providers of VSP can be resolved in an out-of-court procedure, either in mediation (according to a special regulation – Act on Mediation³³⁶), or before the regulator:

(1) Mutual dispute between the user of the video sharing platform and the provider of the video sharing platform regarding the application of § 48 and § 49 par. 1 to 3 can be resolved out of court according to a special regulation or according to paragraphs 2 and 3 before the regulator.

(2) The user can share suggestions for video sharing before the regulator if his request is not provided by the video sharing platform provider at all or in a manner predetermined by the provider video sharing platform.

(3) According to paragraph 2, the regulator will examine the proposal and propose a method of settling the dispute.

(4) The provisions of paragraphs 1 to 3 do not affect the rights of users of the video sharing platform and providers of the video sharing platform to file a mutual dispute.

5.29.5.6. Rights before a court for users

Please see 5.29.5.5.

³³⁶ <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/420/>



5.29.6. Studies, reports and research

N/A.

5.29.7. Data compilation

This factsheet is based on data compiled by Norbert Vrabec, Associate Professor at the Faculty of Mass Media Communication, University of Ss. Cyril and Methodius in Trnava.