



4.3. Bosnia and Herzegovina (BA)¹⁰⁸ (Country report A¹⁰⁹)

Disclaimer

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In addition, the analyses presented in this report cannot in any way be considered as representing the point of view of the members of the European Audiovisual Observatory or of the Council of Europe.

KEY FINDINGS

- Bosnia and Herzegovina fully aligned the legislative framework with the Audiovisual Media Services (AVMS) Directive (2010/13/EU), largely via secondary legislation.
- The alignment with the AVMS Directive (2010/13/EU), as amended by Directive (2018/1808/EU) is moving forward with the development of a range of draft by-laws and codes, which were made available for public consultation on 23 September 2022. On 24 February 2023, the Council of the Communication Regulatory Agency (CRA/KRA) adopted three of the four relevant bylaws. The final Rule on the Provision of Audiovisual Media Services was adopted by the Council on 18 May 2023.
- The general principles and key values are covered in the legislative framework – but the rules on transparency of media ownership are rather flexible.
- The CRA plays an important role in the implementation of the EU *acquis* and in developing policies in areas such as media literacy.

¹⁰⁸ The country report on Bosnia and Herzegovina incorporates the feedback received from Maida Ćulahović, Head of Complaints and Analyses Department at the Communication Regulatory Agency (RAK), during the checking round with the national regulatory authorities.

¹⁰⁹ Country report A outlines the findings of Questionnaire A in relation to Group I, which includes Bosnia and Herzegovina.



- The list¹¹⁰ of countries participating in the Creative Europe Programme 2021 – 2027 was recently amended, in February 2024.

4.3.1. Introduction

Bosnia and Herzegovina (BA) has participated in the Creative Europe programme since 2014. In the context of this research, Bosnia and Herzegovina is part of the Group I countries. Countries in this Group that fully participated in the 2014-2020 Programme may fully participate in the Programme's MEDIA strand and CROSS strand on a provisional basis if they can show that they have taken tangible steps to align their legislation to the AVMS Directive 2010/13/EU, as amended by AVMS Directive (EU) 2018/1808 (hereinafter referred to as the AVMS Directive or AVMSD). In order to continue to participate in the programme beyond 31 December 2022 they needed to fulfil the conditions set out in the AVMS Directive.

In the context of EU accession, Bosnia and Herzegovina is a candidate country since December 2022. Following the entry into force of the Stabilisation and Association Agreement (SAA) between the EU and Bosnia and Herzegovina in 2015,¹¹¹ the country applied for EU membership in February 2016. In its opinion on the EU membership application, adopted in May 2019, the Commission set out 14 key priorities for the opening of EU accession negotiations. In December 2023 the European Council decided that it will open accession negotiations with Bosnia and Herzegovina, once the necessary degree of compliance with the membership criteria is achieved. It invited the Commission to report to the Council on progress at the latest in March 2024, with a view to making a decision.

The Constitution of Bosnia and Herzegovina (Annex IV of the Dayton Peace Agreement) sets out the internal structure of Bosnia and Herzegovina as a state consisting of two entities, the *Republika Srpska* and the Federation of Bosnia and Herzegovina - the latter composed of 10 cantons - as well as the Brčko District. At state level, legislative power is vested in the BA Parliamentary Assembly (House of Representative and House of Peoples) and executive power in the tripartite, directly elected Presidency and in the Council of Ministers. Entities and cantons have each their own government and assembly, entrusted with wide legislative competences. The Dayton Peace Agreement (Annex X) also established the Office of the High Representative (OHR), which since December 1997 is granted extensive executive powers to impose legislation and to remove obstructive officials ("Bonn Powers").¹¹²

¹¹⁰ https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/crea/guidance/list-3rd-country-participation_crea_en.pdf

¹¹¹ Stabilisation and Association Agreement with Bosnia and Herzegovina: <https://eur-lex.europa.eu/EN/legal-content/summary/stabilisation-and-association-agreement-with-bosnia-and-herzegovina.html>

¹¹² European Commission, Analytical report on Bosnia and Herzegovina, SWD(2019)222, May 2019 <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-bosnia-and-herzegovina-analytical-report.pdf>.



The latest general elections took place in October 2022 and a new Council of Ministers took office in January 2023.

4.3.1.1. Relevant legal framework: current status and developments

The table below outlines the relevant legislative framework for the audiovisual media sector. This country report does not outline the rules related to the entire AVMS Directive, but focuses rather on a selection of issues: definitions, jurisdiction, freedom of reception and retransmission, and a range of general principles and key values including freedom of expression, independence of the national regulatory authority (the NRA), the protection of minors, the promotion of the rights of people with disabilities to access audiovisual content, the transparency of media ownership, and also provisions regarding European works, audiovisual commercial communications (ACCs) and video-sharing platforms (VSPs).

The legislative framework of Bosnia and Herzegovina includes a broad range of secondary acts, and only those directly relevant to the issues addressed in this country report are included below.



Table 43. Legal framework

Title	Status	Relevance	Link
<i>Ustav Bosne i Hercegovine</i> Constitution of Bosnia and Herzegovina	Adopted 1995 at Annex 4 to the DPA	Covering (among others) fundamental rights and freedoms	In Bosnian https://www.ustavnisud.ba/public/download/USTAV_BOSNE_I_HERCEGOVINE_bos.pdf In English: https://www.parlament.ba/data/dokumenti/pdf/vazniji-propisi/Ustav_BA_-_E.pdf
<i>Zakon o komunikacijama</i> Law on Communications, 2002 (amended in 2006, 2010 and 2012)	Adopted 2002, last amended 2012	Current law in force on communications (telecoms, radio, broadcasting, including cable television and associated services and facilities) and establishing the Communications Regulatory Agency	In Bosnian: https://docs.rak.ba/articles/8ed64927-655f-4461-8940-722ef312c3c7.pdf In English: http://www.ohr.int/laws-of-BA/public-information/
<i>Krivični Zakon Bosne i Hercegovine</i> Criminal Code of Bosnia and Herzegovina (2003), last amended 2021	In force	Criminal offences such as incitement to hatred	In Bosnian https://www.paragraf.ba/propisi/BA/krivicni-zakon-bosne-i-hercegovine.html In English https://rm.coe.int/BA-criminal-code-consolidated-text/16806415c8
<i>Zakon o Zabrani Diskriminacije</i> Law on Prohibition of Discrimination (2009, amended 2016)			In English https://arsbih.gov.ba/wp-content/uploads/2014/02/002-Anti-Discrimination-Law-.pdf



			In Bosnian https://advokat-prnjavorac.com/zakoni/Zakon-o-zabrani-diskriminacije-u-BiH.pdf
Secondary legislation: by-laws, codes, etc. in force			
<i>Kodeks o audiovizuelnim medijskim uslugama i medijskim uslugama radija 2015</i> Code on audiovisual media services and radio media services, 2015	Adopted 2015	Basic principles of programme content (Replaced by the Code on Programme Content 2023, see below)	In Bosnian: https://docs.rak.ba/articles/333eb24f-ca18-4ef2-a9ab-8f402e8a4f40.pdf In English: https://rak.ba/en/articles/108
<i>Kodeks o programskim sadržajima 2023</i> Code on programme content, 2023	Adopted 2023	Aligning with the 2018 AVMSD regarding issues of harmful and illegal content and hate speech	In Bosnian: https://docs.rak.ba/articles/436feb44-66bf-4ad7-bfc7-6d6b9e6232f7.pdf In English: N/A https://docs.rak.ba/articles/3cafb926-4263-498a-8207-6f3ecbe25abe.pdf
<i>Kodeks o komercijalnim komunikacijama 2023</i> Code on commercial communications, 2023	Adopted 2023	Aligns with the 2010 AVMSD (as amended by the 2018 AVMSD) regarding audiovisual commercial communications (ACC)	In Bosnian: https://docs.rak.ba/articles/9dde52cf-3b8a-4a71-a310-d996f4415b97.pdf In English: N/A https://docs.rak.ba/articles/77863b5e-85b2-410e-bff5-5b97b6c10bc2.pdf



<p><i>Pravilo o pružanju usluga platformi za razmjenu videozapisa 2022</i></p> <p>Rule on provision of video-sharing platform services, 2023</p>	Adopted 2023	Aligning with the 2018 AVMSD regarding VSPs	In Bosnian: https://docs.rak.ba/articles/535e5740-e95f-4c8a-b72c-23c62c269f28.pdf In English: https://docs.rak.ba/articles/5370e55e-9aef-498a-9150-46c155f05190.pdf
<p><i>Pravilo 95/2023 o dozvolama za distribuciju audiovizuelnih medijskih usluga i medijskih usluga radija 2023</i></p> <p>Rule on the provision of audiovisual media services, 2022</p>	Adopted 2023 (Replaced former 2015 Rule)	Deals with (<i>inter alia</i>) rights and obligations of providers of audiovisual media service providers. Aligning with the 2018 AVMSD regarding definitions, media register, accessibility, etc.	In Bosnian: https://docs.rak.ba/articles/f88bfe17-dec3-4431-ae5-8e2d670f2bca.pdf In English: https://docs.rak.ba/articles/a345fba7-302f-42e7-82b2-0ebbc4f0fbbe.pdf
<p><i>Pravilo 79/2016 o dozvolama za distribuciju audiovizuelnih medijskih usluga i medijskih usluga radija 2016</i></p> <p>Rule on Licences for the Distribution of Audiovisual Media Services and Radio Media Services, 2016</p>	Adopted 2015	Covers freedom of reception and retransmission, and derogations	In Bosnian: https://docs.rak.ba/articles/7b321574-318e-48e5-8311-c352b1265e58.pdf In English: https://rak.ba/en/articles/113
<p><i>Instrukcija o načinu izvještavanja o udjelu evropskih djela i evropskih djela nezavisnih producenata u programskim sadržajima 2015</i></p> <p>Instruction on reporting on the share of European works and European works of independent producers in the programme content, 2015</p>	Adopted 2015	Covers rules on reporting on European works	In Bosnian: https://docs.rak.ba/articles/9b3cd6a5-6595-4c70-8106-7648280fcc62.pdf



<i>Odluka o određivanju tijela nadležnog za saradnju sa regulatornim tijelima iz oblasti audiovizuelnih medijskih usluga i određivanju nadležnog tijela za utvrđivanje liste važnih događaja za emitiranje u Bosni i Hercegovini 2013</i> Decision on designation of the authority in charge of cooperation with regulatory bodies in the field of audiovisual media services and designation of the competent body for determining the list of major events in Bosnia and Herzegovina, 2013	Adopted 2013	Relevant to the role of the NRA in cooperation with other NRAs	N/A
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Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The Law on Communications was last amended in 2012. The working group tasked to update the law last met in 2020; it comprised of representatives of the Ministry of Communications and Transport, the Communications Regulatory Agency (CRA) and the Directorate for European Integration. The group produced a draft of a new Law on Electronic Media and Electronic Communications. It was later decided by the Government to proceed with two separate laws: a Law on Electronic Communications and a Law on Electronic Media, and new working groups were established. The CRA has submitted its proposal for the new Law on Electronic Media, which includes the partial alignment with the 2018 AVMS Directive. However, due to the political blockade in 2021-2022, the entire process remained at a standstill the new law was not adopted by the end of the legislature. Hence, alignment will be achieved by means of CRA by-laws (as was the case with the 2010 AVMS Directive). The CRA has prepared the relevant drafts (as indicated in the table above). The drafts were published for public consultation between 23 September and 6 November 2022. On 24 February 2023, the CRA Council adopted three of the four relevant codes: the Code on Programme Content (which replaces the Code on audiovisual media services and radio services of 2015), the Code on Commercial Communications, and the Rule on provision of video-sharing platforms. The final Rule on the Provision of Audiovisual Media Services was adopted by the Council on 18 May 2023.

4.3.1.2. Definitions and alignment with the AVMS Directive

Below is an overview of the alignment of relevant definitions with the 2018 AVMS Directive.



Table 44. Definitions

Definitions (Article 1 AVMSD)	In line with the AVMSD	References
Audiovisual media service	Yes – aligned with the 2018 AVMSD.	Article 2b – Rule on provision of audiovisual media services 2023
Video-sharing platform (VSP) service	Yes – aligned with the 2018 AVMSD.	Article 2b – Rule on provision of video-sharing platform services, 2023
Programme	Yes – aligned with the 2018 AVMSD.	Article 2d – Rule on provision of audiovisual media services 2023
User-generated video	Yes – aligned with the 2018 AVMSD.	Article 2d – Rule on provision of video-sharing platform services, 2023
Editorial decision	Yes – aligned with the 2018 AVMSD.	Article 2z – Rule on provision of audiovisual media services, 2023
Editorial responsibility	Yes – aligned with the 2018 AVMSD	Article 2v – Rule on provision of audiovisual media services 2023
Media service provider	Yes – aligned with the 2018 AVMSD (defines audiovisual media service provider)	As above, Article 2f
VSP provider	Yes – aligned with the 2018 AVMSD	Article 2c – Rule on provision of video-sharing platform services, 2023
Television broadcasting or television broadcast	Yes – aligned with the 2018 AVMSD	Article 2e – Rule on provision of audiovisual media services 2023
Broadcaster	Yes – aligned with the 2018 AVMSD (defines broadcasting service)	As above, Article 2bb
On-demand audiovisual media service	Yes – aligned with the 2018 AVMSD	As above, Article 2c
Audiovisual commercial communication (ACC)	Yes – aligned with the 2018 AVMSD	Article 2 – Code on commercial communications, 2023
Television advertising	Yes – aligned with the 2018 AVMSD	Article 2 – Code on commercial communications, 2023
Surreptitious ACC	Yes – aligned with the 2018 AVMSD	As above, Article 2
Sponsorship	Yes – aligned with the 2018 AVMSD	Article 2 – Code on commercial communications, 2023



Definitions (Article 1 AVMSD)	In line with the AVMSD	References
Teleshopping	Yes – aligned with the 2018 AVMSD	Article 2 – Code on commercial communications, 2023
Product placement	Yes – aligned with the 2018 AVMSD	Article 2 – Code on commercial communications, 2023
European works	Yes – aligned with the 2018 AVMSD	Article 14(1-3) – Rule on provision of audiovisual media services 2023
Independent producer	Yes – aligned with the 2018 AVMSD	Article 15(1) – Rule on provision of audiovisual media services 2023
Definition of harmful content (or equivalent such as violation of integrity, or violation of dignity)	There are no definitions but Article 9 (Violence and Other Harmful Behaviour) of the relevant code has provisions on such content.	Article 9 – Code on programme content, 2023
Definition of incitement to hatred (or equivalent)	There are no definitions but Article 5 (Hate Speech) of the relevant code has provisions on the prohibition of hate speech.	Article 5 – Code on programme content, 2023

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

Following the adoption of the four secondary legislative acts – i.e., codes and rules, in March and May 2023, the regulatory framework is now completely aligned with the definitions in the 2010 AVMS Directive as revised by the 2018 AVMS Directive. The codes have also updated definitions regarding audiovisual commercial communications, with the necessary references to user-generated content, and to VSPs.

4.3.1.3. Jurisdiction, and the principle of freedom of reception and retransmission

The legislative framework, outlined below, aligns with the AVMS Directive in relation to the establishment of jurisdiction, and the draft legislation includes verbatim the relevant provisions in relation to the jurisdiction of video-sharing platforms.

Table 45. Jurisdiction

Provisions related to jurisdiction	In line with AVMSD	References
Article 2 of the AVMSD regarding jurisdiction of AVMS providers.	Yes – aligned in current by-law.	Article 4 – Rule on provision of audiovisual media services 2023



Article 2 (5a) - Requirement that media service providers inform the competent national regulatory authorities or bodies about any changes that may affect the determination of jurisdiction.	Yes – as part of reporting requirements to the NRA.	Article 21(7) – Rule on provision of audiovisual media services, 2023
Article 2 (5b) - Requirement that an up-to-date list of the AVMS providers under national jurisdiction be maintained.	The NRA currently provides an up-to-date list. A requirement to do this is included in new draft rules.	Article 21(6) – Draft Rule on provision of audiovisual media services, 2023
Article 28a (paragraphs 1-5) - regarding the establishment of the jurisdiction of VSPs.	Yes – aligned in the Rule.	Article 4 – Rule on provision of video-sharing platform services, 2023
Article 28a (paragraph 6) - Requirement that an up-to-date list of the VSP providers established or deemed to be established on their territory be maintained.	Yes – aligned in the Rule.	Article 5 (6) – Rule on provision of video-sharing platform services, 2023
Article 28a (7) regarding the role of the European Regulators Group for Audiovisual Media Services (ERGA) in providing an opinion on jurisdiction.	Not mentioned but BA is an observer rather than a member of the ERGA.	

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The legislation also enshrines the principle of freedom of reception and retransmission for AVMS aligned with both the AVMS Directive and the European Convention on Transfrontier Television (ECTT). This is included in regulations on licensing. Derogations are referred to in the same rule with reference to general principles. These derogations are not very detailed – reference is made to “cases provided for by relevant international legal instruments”.

**Table 46. Freedom of reception and retransmission – and derogations**

AVMSD and the freedom of reception and retransmission	In line with AVMSD and European standards	References
Article 3 (1) – ensuring freedom of reception and retransmission.	Yes – the principle is detailed under general principles of the relevant rules. Refers also to freedom of transmission and reception of services from states party to the ECTT.	Article 3 – Rule on Licences for the Distribution of Audiovisual Media Services and Radio Media Services
Article 3(2-5) – derogations from the principle of freedom of reception and transmission	General principles: make reference to violation of relevant laws and regulations – and also to “cases provided for by relevant international legal instruments”.	Article 3 – Rule on Licences for the Distribution of Audiovisual Media Services and Radio Media Services

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

No specific issues were raised by the expert in relation to the above. However, it should be noted that non-EU countries are not part of the structures of cooperation within the ERGA, being observers rather than members (as is the case of Bosnia and Herzegovina). Hence, they do not play a role in the procedures regarding opinions on the establishment of jurisdiction and opinions on issues of derogation.

4.3.2. General principles and key values promoted by the AVMS Directive

Regarding a range of general principles relevant to the media sector, and key values promoted by the AVMS Directive, the table below provides an overview of those that are not dealt with in more detail in later sections.

Table 47. General principles and key values

General principle/key value	Relevant provision/provisions	References
Principle of non-discrimination	This is covered in constitutional, media law and in detail in the Law on Prohibition of Discrimination. *** The grounds for non-discrimination include: <i>persons or groups based on gender, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social origin or any other consequence with the purpose of</i>	Law on Prohibition of Discrimination (2009, amended 2016) *** Article 4 of the Constitution of



General principle/key value	Relevant provision/provisions	References
	<p><i>preventing or jeopardising recognition, enjoyment or exercise of any person's rights and freedoms on an equal basis...</i></p> <p>***</p> <p>Non-discrimination addressed in relation to hate speech in the Code on programme content</p> <p>***</p> <p>The Criminal Code also prohibits discrimination under Article 145.</p>	<p>Bosnia and Herzegovina.</p> <p>***</p> <p>Article 4 – Law on Communications</p> <p>***</p> <p>Code on programme content, 2023, Article 5</p> <p>***</p> <p>Article 145 Infringement of the Equality of Individuals and Citizens – Criminal Code</p>
<p>Prohibition of incitement to hatred and incitement to violence</p>	<p>The criminal Code prohibits incitement to hatred</p> <p>***</p> <p>Article 5 (1) prohibits humiliating, intimidating or inciting to hatred, violence or discrimination against persons or groups (as defined in the Constitution – see above).</p> <p>Article 5 (2) states that AVMS and radio media services shall not create a clear and immediate risk of inciting hatred, violence or discrimination, or include anything which could be interpreted as incitement of hatred, violence and disorder by the audience, or which could cause or incite criminal acts.</p>	<p>Criminal Code, Article 145a</p> <p>Provoking ethnic, racial and religious hatred, conflicts and intolerance</p> <p>***</p> <p>Article 5 – Code on programme content, 2023</p>
<p>Prohibition of criminal content: provocation to commit a terrorist offence; child pornography; racism and xenophobia, incitement to terrorism</p>	<p>The Criminal Code prohibits incitement to terrorism (Article 202a), and as noted above it prohibits encouraging to hatred, racism and xenophobia (Article 145a)</p> <p>***</p> <p>Article 4 of the Code prohibits content which carries a clear and immediate risk of causing negative consequences which include, but are not limited to death, injury, property damage or other types of violence, or obstruction of police activities, medical services or activities of other services related to maintenance of public order and security.</p> <p>Article 6 prohibits the glorification, justification or incitement to committing an act of terrorism.</p>	<p>Criminal Code</p> <p>Article 202a - Encouraging Terrorist Activities in Public</p> <p>Article 145a - Provoking ethnic, racial and religious hatred, conflicts and intolerance</p> <p>***</p> <p>Article 4 – Code on programme content, 2023</p>



General principle/key value	Relevant provision/provisions	References
		Code on programme content, 2023, Article 6

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

As outlined above, each of these first three principles: non-discrimination, prohibition of incitement to hatred and violence, and prohibition of criminal content, and the prohibition on incitement to terrorism are covered in the legislative framework. A specific Law on the Prohibition of Discrimination was adopted in 2009 and amended in 2016. The constitutional requirements on non-discrimination are adopted in the codes that regulate AVMS. In addition, incitement to hatred or violence is also included in these codes.

4.3.2.1. Freedom of expression, freedom of the media and prohibition of censorship

The table below indicates the relevant legal framework for the protection of the freedom of expression, which is enshrined in the Constitution of Bosnia and Herzegovina, included as a regulatory principle in the Law on Communications, and also as a general programme principle in the Code on Audiovisual media and Radio Media Services.

Table 48. Freedom of expression

General principle/key value	Relevant provision/provisions	References
Freedom of expression	The Constitution states that the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols apply directly in Bosnia and Herzegovina and have priority over all other law (Article II, paragraph 2). This includes the fundamental right to freedom of expression (Article II, paragraph 3h).	Constitution of Bosnia and Herzegovina Article II, paragraph 2 International standards paragraph 3 Enumeration of rights
Freedom of expression	Article 4 of the Law on Communications states that one regulatory principle of broadcasting shall include the protection of freedom of expression and diversity of opinion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy, and impartiality.	Law on Communications, 2002, Article 4 (1) Regulatory Principles of Broadcasting and Telecommunications
Freedom of expression	The duty for AVMS to respect human dignity and the fundamental rights of others, and to encourage the	Code on Programme Content, 2023, Article 4



	free formation of opinions is reiterated in the relevant code for audiovisual media.	
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Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The right to freedom of expression is clearly enshrined in the legislative framework, but there are problems with the implementation of the legal provisions. The European Commission 2022 report on Bosnia and Herzegovina¹¹³ expressed concern regarding the legislative framework and the need for it to be aligned with European and international standards and fully enforced. Reasons for this included concern regarding political influence over public broadcasters, and the lack of financial sustainability for public service broadcasters. The situation regarding journalists was also highlighted regarding political pressure, intimidation and harassment towards journalists, including physical and verbal attacks that do not receive appropriate institutional follow-up. The report concluded that the key problems to be addressed included: ensuring the protection of journalists and a systematic follow-up on threats against them; ensuring the financial sustainability and independence of public broadcasters; adopting legislation on media ownership; and adopting criteria on public advertising.

The national expert also drew attention to the 2021 Vibrant Information Barometer produced by IREX¹¹⁴ which emphasised the difficult position of journalists claiming that although there are legal protections in place regarding freedom of speech and information, the implementation is inadequate leading journalists to frequently self-censor out of fear. They claim that the government does not openly censor the media but that during the COVID-19 pandemic, there were attempts to restrict freedom of expression.

Regarding the difficulties faced by journalists, the *BH Novinari* journalists' association recorded 70 cases of journalists' rights being violated in 2021 (69 in 2020, 56 in 2019)¹¹⁵, including physical attacks, online and in-person threats, smear campaigns, mobbing and hate speech. In most cases, the prosecutors' offices and police did not find the perpetrators, and the courts did not process them. Research from *BH Novinari* pointed to the precarious situation of journalists working in local newsrooms – in the years 2017-2020, 40% of journalists interviewed in the study (157 overall) said they had been exposed to attacks and threats, and 75% had been placed under pressure by government officials, the opposition, and advertisers.¹¹⁶ A United Nations report from 2022 indicated ongoing issues in the area of freedom and safety of journalists.¹¹⁷

¹¹³ European Commission: Bosnia and Herzegovina Report 2022, SWD(2022)336. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Bosnia%20and%20Herzegovina%20Report%202022.pdf>

¹¹⁴ IREX Vibrant Information Barometer 2021 – Bosnia and Herzegovina: <https://www.irex.org/sites/default/files/pdf/vibe-bosnia-herzegovina-2021.pdf>.

¹¹⁵ European Commission: Bosnia and Herzegovina Report 2022, SWD(2022)336

¹¹⁶ Western Balkans Journalists' Safety Index – Bosnia and Herzegovina 2020 Narrative Report: <https://bhnovinari.ba/wp-content/uploads/2021/12/BA-ENG.pdf>.

¹¹⁷ UN (2022): The Right to Freedom of Opinion and Expression - The safety of journalists and access to information in Bosnia and Herzegovina. Report developed in the framework of the OHCHR-UNESCO Global Drive project.



One issue addressed in the questionnaire was whether there were any concerns regarding laws and regulations intended to regulate the media, which could lead to censorship, for example, laws aiming to regulate the Internet, online news portals or online publications. Online news portals are subject to self-regulation implemented by the Press and Online Media Council. However, according to the European Commission's 2022 Report on Bosnia and Herzegovina, self-regulation of online media has limited effect with many platforms being used to spread hate speech and defamation.

In order to tackle some of the challenges posed by the current lack of rules on harmful online content, in 2021 the CRA Council approved draft amendments to the CRA rules governing the provision of audiovisual and radio media services, with a view to extending the licensees' editorial responsibility to their online content. More specifically, it is proposed that all content published on broadcasters' official websites or websites marked with their logo be subject to the same basic tier of rules as the broadcast content, in terms of incitement to violence, hatred and discrimination, prejudice to public health and safety, the protection of minors and their privacy, as well as the right of reply. If adopted, the scope of regulation will effectively be expanded to include the prevention of harmful content in media service providers' online activities. The Council decided in 2022 to drop the proposals on the grounds that a broader approach will be needed that should involve a wider stakeholder cooperation in order to deal with online media. A report commissioned by the CRA under the JUFREX Project covers online problematics, maps relevant local players, and assess their capacities and readiness to take on joint responsibility, and provides recommendations for the establishment and functioning of a cooperation platform to tackle harmful online content.¹¹⁸

On 1 November 2022, the president of Republika Srpska (RS) Milorad Dodik, proposed the adoption of amendments to re-criminalise defamation in the Criminal Code of the RS. Civil society and journalism associations strongly condemned the proposal, which would threaten media freedom as is not in line with international human rights standards, and the practice of the European Court of Human Rights.¹¹⁹ These amendments were adopted at the first reading by the RS National Assembly on 23 March 2023.

4.3.2.2. The independence of national regulatory authorities in the media sector

The first national regulatory authority (NRA) was the Independent Media Commission (IMC) established by the Office of the High Representative (OHR) in 1998. In 2001, the OHR decided to merge the IMC and the Telecommunications Regulatory Agency into the Communications Regulatory Agency of Bosnia and Herzegovina (CRA). Hence the CRA is a converged regulatory body in charge of both the broadcasting and telecommunications sectors.

¹¹⁸ Not published as of 20 June 2023.

¹¹⁹ See for example, South East European Network for the Professionalisation of the Media (SEENPM): <https://seenpm.org/dodiks-proposed-laws-whoever-says-a-word-goes-to-jail/>



Table 49. Independence of the National Regulatory Authority (NRA)

AVMSD and the independence of NRAs (Article 30)	In line with AVMSD	References
NRAs should be legally distinct from, and functionally independent of government.	Yes – this is aligned with the 2018 AVMSD in the current law.	Article 36, Law on Communications, 2002
NRAs should exercise their powers impartially and transparently.	Yes – this is aligned with the 2018 AVMSD in the current law.	Article 36, Law on Communications
Clear definition of the competences and powers of the NRAs outlined in the law.	Yes – this is aligned with the 2018 AVMSD in the current law. The responsibilities and also the duties of the CRA are outlined.	Articles 3 and 37, Law on Communications
NRAs should have adequate financial and human resources and enforcement powers to carry out their functions; they should also have their own budgets.	Yes – this is partially aligned with the 2018 AVMSD in the current law. The budget is linked to the state budget (see discussion below).	Article 43, Law on Communications Article 44, Law on Communications
Clear conditions and (transparent and non-discriminatory) procedures for the appointment and dismissal of the heads of NRAs/members of governing bodies are laid out in the law.	Yes – this is aligned with the 2018 AVMSD For the Council of the CRA – the selection of candidates is made by a Parliamentary Commission. The Council of Ministers selects the final members and the Parliamentary Assembly votes on whether to accept this list. For the Director, the Council of the Agency runs a public competition and the Council of Ministers must approve the final decision. Regarding dismissal procedures: for the Council of the CRA it is only the Parliamentary Assembly which does this; for the Director, it is the Council of Ministers. A list of the usual grounds for dismissal are provided, such as: illness, conviction of a crime, conflict of interest, resignation, non-performance of duties, violation of the Agency’s Code of Ethics.	Articles 39, 40, and 42, Law on Communications
Existence of effective and independent appeal mechanisms.	Yes – this is aligned with the 2018 AVMSD including appeals to the Council of the CRA (administrative procedure) – and the possibility for legal review before the State Court.	Article 47, Law on Communications
Provisions in the law that support cooperation between NRAs.	Yes – this is aligned with the 2018 AVMSD The CRA is designated as responsible for cooperation with NRAs in the field of AVMS of the member states of the EU.	“Decision on the appointment of the body responsible for cooperation with regulatory authorities in the field of audiovisual media



		services and the body responsible for determining the list of major events in Bosnia and Herzegovina”, 2013
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Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The provisions of the AVMS Directive covering the principle of independence of the national regulatory authority have been enshrined in the legislative framework (Law on Communications) for many years. As can be seen in the table above, these align with the requirements of the 2018 AVMS Directive.

Regarding financial independence, the CRA is a self-financed body (from licence fees), but its budget is part of the state budget and according to the information provided in the European Audiovisual Observatory’s survey, this can cause problems as the CRA does not have direct control over its funds. Where the state budget is not adopted on time, the funding for the CRA directly depends on decisions on the temporary financing of state institutions. Since 6 June 2022, following a decision of the OHR, such temporary financing is automatic. This should therefore mitigate the former problems related to late adoption of the state budget.

In addition, although the legal framework tasked the CRA with establishing compensation schemes for its employees, this was revoked in 2008 by a separate Law on Salaries and Compensations in Institutions of Bosnia and Herzegovina.

A 2019 report by the European Audiovisual Observatory on the independence of national regulatory authorities covered Bosnia and Herzegovina as a case study. Appointment procedures for the CRA Council and Director General were criticised as being non-transparent and inefficient, open to political pressures and carrying a risk of exposing the CRA to undue influence from the Council of Ministers and the Parliamentary Assembly:

*The Law provides for the possibility of an indefinite repetition of the procedure for the appointment of the CRA Council until political agreement is reached within and between the Parliament and the Council of Ministers.*¹²⁰

In relation to political independence, the 2021 European Commission report¹²¹ stated that the CRA still lacked full political and financial independence and that the procedure to appoint the CRA management should be revised in order to improve its public perception as a neutral and independent body. The report noted that the former head of Republika Srpska’s public television (RTRS), had been appointed as the new CRA director in July 2020; “the CRA had sanctioned RTRS multiple times during his mandate for non-respect of editorial standards, including for historical revisionist statements as regards the May 1995

¹²⁰ Cappello M. (ed.), *The independence of media regulatory authorities in Europe*, IRIS Special, European Audiovisual Observatory, Strasbourg, 2019: <https://rm.coe.int/the-independence-of-media-regulatory-authorities-in-europe/168097e504>.

¹²¹ European Commission: Bosnia and Herzegovina Report 2021: <https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-10/Bosnia%20and%20Herzegovina%202021%20report.PDF>.



massacre in Tuzla.” Since the new Director General was appointed, according to CRA reports on violations and sanctions, RTRS has not been sanctioned again, although independent analysts agree that its reporting and editorial policy have remained the same.

The 2022 European Commission report reiterated the concerns that the CRA still lacks full political and financial independence.

4.3.2.3. The protection of minors

Here the legislative framework for the protection of minors and the extent to which it aligns with the AVMS Directive is examined in relation to obligations on AVMS to protect minors from harmful content; with regard to protecting minors from harm in the context of audiovisual commercial communications; regarding prohibited/restricted advertising.

Table 50. Protection of minors

AVMSD and protection of minors	In line with AVMSD	References
Obligations to protect minors from harmful content, via a watershed/scheduling, age verification tools or other technical measures	Yes – this is aligned with the 2018 AVMSD. Rules related to the protection of minors include a watershed/scheduling, content categorisation and technical protection, reporting on minors and rules pertaining to content intended for minors.	Articles 26 of the Code on Programme Content, 2023,
Prohibition against the commercial use of personal data of minors collected when implementing these measures	Yes – the current Code follows the provision in the 2018 AVMSD verbatim.	Code on Programme Content, 2023, Article 25 (3)
Informing viewers about potentially harmful content (content rating systems, visual or acoustic signals)	Yes – the current rules include the requirement for visual and acoustic signals.	Article 26 of the Code on Programme Content, 2023
Bans or prohibitions (or limitations) on certain products: cigarettes, tobacco products, and electronic cigarettes, alcoholic beverages, etc.	Yes – aligned with the 2018 AVMSD in the current code Audiovisual commercial communications (ACC relating to cigarettes and other tobacco products, including electronic cigarettes and refills are prohibited. ACC related to all kinds of alcoholic beverages must not be aimed specifically at minors, and persons appearing in ACCs that are associated with the consumption of alcoholic beverages shall not be or look like minors (Article 6).	Article 6 (1) of the Code on Commercial Communications 2023 Articles 6 and 7 (5) of the Code on Commercial Communications 2023



	There is also a prohibition against broadcasting advertising for a range of products ¹²² including alcoholic beverages and beer, 15 minutes before, during and 15 minutes after a children's programme (Article 7(5)).	
	Showing the consumption of tobacco and tobacco products and alcohol in content primarily intended for minors is prohibited, unless the purpose is to indicate the nature of harm related to these products.	Article 20 of the Code on programme content, 2023
Provisions to effectively reduce the exposure of minors to ACCs for alcoholic beverages	Yes aligned in the current Code, which limits the broadcast of such advertising around children's programmes	Code on Commercial Communications 2023 , Article 7 (5)
Requirement that ACCs shall not cause physical, mental or moral detriment to minors	Yes – this is aligned with the AVMSD, in detail in the current Code.	Article 7 of the Code on Commercial Communications 2023.
Effectively reduce the exposure of children to ACCs for such foods and beverages containing fat, trans-fatty acids, salt or sodium and sugars (HFSS)	Yes aligned in the current Code which limits the broadcast of such advertising around children's programmes.	Code of commercial communications 2023, Article 7 (6)
Prohibition against product placement in children's programmes	Yes – this is aligned with the 2018 AVMSD.	Article 19 of the Code on Commercial Communications

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The Code on Commercial Communications adopted in February 2023 has aligned the area with the 2018 AVMS Directive. The adoption of the Code on Programme Content on the same date also aligned the rules on protection of minors from harmful content.

A recent (2020) review of the codes for the protection of minors noted that AVMS providers face challenges when making editorial decisions on appropriate age labels, including due to a lack of resources, capacity and knowledge. Bosnia and Herzegovina lacks any professional association or body that is responsible for the classification of content.¹²³

Although it still does not have a clear legal remit in this field, the CRA has been actively promoting media and information literacy (MIL) since 2010. The majority of activities in this area have focused on the protection of minors, including various promotional activities (publications, brochures, TV and radio spots, lectures, etc.) with the goal of raising awareness about the protection of children as regards both linear and non-linear services. The CRA has facilitated the formation of an informal MIL network in the

¹²² Alcoholic beverages, beer, medicines, medical treatments, aids and devices, including dietary supplements, medical institutions, means of regulating body weight, ignition devices, inflammable and other hazardous substances, religious messages and games of chance.

¹²³ J.F Furnémont (2020), *Review of the provisions of the Code on audiovisual media services regarding protection of minors*. Study prepared under the JUFREX project: <https://rak.ba/en/brdcst-media-literacy>.



country and is managing a Facebook page as well as the MIL website¹²⁴ which has a special section for children and minors. In October 2021, the first campaign entitled “Days of media and information literacy” was held in cooperation with organisations and institutions active in the field of media and information literacy with the goals of promoting MIL activities, encouraging social debate on the importance of this topic, especially in the field of education, and promoting specific resources that have been developed in this area including various studies and materials for teachers, children and parents.

4.3.2.4. The promotion of the rights of people with disabilities to access audiovisual content

The 2018 AVMS Directive strengthens the obligations for AVMS providers to provide accessible audiovisual media content. EU member states are now expected to ensure “without undue delay” that services are made “continuously and progressively more accessible”. This section briefly outlines the extent to which the legislative framework, or draft legislation/rules are addressing the basic requirements of the 2018 AVMS Directive – in respect of these issues. In the case of Bosnia and Herzegovina, the new Rule on the provision of AVMS covers the issue of accessibility.

Table 51. Accessibility

AVMSD and accessibility of audiovisual media services	In line with AVMSD	References
Ensuring – without undue delay – that services provided by AVMS providers are made continuously and progressively more accessible.	Yes - aligned with the 2018 AVMSD The Rule introduces progressive obligations on AVMS (10% of programming in first year 2023 – to reach 20% after 5 years).	Article 13 (11 and 12) Rule on provision of audiovisual media services 2023
Media service providers should report on this to the NRAs. Media service providers are encouraged to develop action plans in this area and should communicate these to the NRAs.	Yes - aligned with the 2018 AVMSD Introduces the obligation for annual reporting by broadcasters to the CRA. Broadcasters will also be required to submit to the CRA within six months of entering into force of the Rule, a five-year action plan which, once approved, will become part of licence terms and conditions.	As above, Article 13 (13)
States should provide a public online point of contact for providing information and receiving complaints.	Yes - aligned with the 2018 AVMSD The CRA will create a point of contact available on its website and/or a designated email address.	Article 13 (14)
Emergency information should be in accessible formats.	Yes - aligned with the 2018 AVMSD This will be required under the new rules when adopted.	Article 13 (15)

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

¹²⁴ www.medijskapismenost.ba.



From the information above, it is clear that the Rule on provision of audiovisual media services 2023, adopted by the CRA Council in May 2023, has aligned the regulatory framework with the requirements of the 2018 AVMS Directive. In addition, the CRA cooperates with a local NGO, the ICVA (Initiative and Civil Action)¹²⁵ in implementing a project aimed at improving accessibility to media content and services. As part of this cooperation, guidelines have been produced, and workshops have been held for members of selected disability organisations who will conduct monitoring of the public service broadcaster’s programmes in order to establish to what extent they implement the accessibility obligation. Work in this area is enhanced by the European Union funded project ‘Equal Access for All’. The project is intended to improve the level of accessibility to media content and services for people with disabilities and to improve the legal framework and practices in this segment.¹²⁶

4.3.2.5. Transparency of media ownership and the promotion of media pluralism

The 2018 AVMS Directive emphasises (recital 15) that “[t]ransparency of media ownership is directly linked to freedom of expression, a cornerstone of democratic systems”. The AVMSD requires a minimum of public information about services (Article 5), and national lists of media services (Article 2). The main source of obligations in this area is the Rule on the Provision of audiovisual media services.” As will be outlined in the discussion below, there are no laws that regulate the concentration of domestic and foreign ownership in media and advertising, nor are there any that require transparency in media ownership.

Table 52. Transparency of media ownership

AVMSD and transparency of media ownership	In line with AVMSD	References
Requirement for a service provider to provide publicly accessible information on the following: its name; the address at which it is established, its email address or website, the state having jurisdiction over it and the competent NRA.	Yes - aligned with the 2018 AVMSD The rule requires the information: name, address of establishment or head office, an email address or website and where the license was granted by the CRA (for both broadcasters and audiovisual on-demand services).	Articles 18 and 36 of the Rule on provision of audiovisual media services, 2023
Possible to also require AVMS providers to make accessible information on their ownership structures.	The Agency requires information on ownership structures under Article 22. But there is no provision allowing the publication of such data due to foreseeable challenges of implementation (see discussion below).	Rule on provision of audiovisual media services, 2023

¹²⁵ <http://icva-bh.org/>.

¹²⁶ Website of NGO Jabiheu: <https://jabiheu.ba/how-to-adapt-media-content-to-the-needs-of-200000-people-with-disabilities-in-bosnia-and-herzegovina/>



Requirement for states to establish and maintain up-to-date lists of the national AVMS providers	Yes - aligned with the 2018 AVMSD The CRA maintains a public registry of services, which contains their name, name of service, type of licence/registration, official address, email address and other contact information. A requirement to maintain the registry is included in the new Rule.	Articles 21 and 33, Rule on provision of audiovisual media services 2023
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Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The regulatory framework requires that basic information regarding the services should be publicly available, and the CRA is required to establish and maintain up-to-date lists of the national AVMS providers. One obstacle related to the transparency of ownership is the fact that the registry currently only includes information on the natural or legal person who has been issued the licence. Detailed information on ownership structure is not being published following a negative opinion on this from the personal data protection authority (PDPA).¹²⁷

As outlined above, there are no laws that regulate the concentration of domestic and foreign ownership in media and advertising, nor are there any that require transparency in media ownership. According to recent research,¹²⁸ 44% of online news portals do not include an impressum, i.e. they provide no information on owners or editorial staff. There are no particular policies or approaches to promote pluralism. The Law on Communications only establishes general regulatory principles (Article 4), which include: the protection of freedom of expression and diversity of opinion while respecting generally accepted standards of decency, non-discrimination, fairness, accuracy and impartiality; the development of professional and viable commercial and public broadcasters with the intention of striking an appropriate balance between the two; and the separation of broadcasters from political control and manipulation, so as to strengthen democratic principles and the foundations of a market economy.

¹²⁷ The relevant article facilitates stronger rules in the Member States, if they chose to oblige media services to publish ownership structures.

AVMS Art 5 (2) states that: 2. *Member States may adopt legislative measures providing that, in addition to the information listed in paragraph 1, media service providers under their jurisdiction make accessible information concerning their ownership structure, including the beneficial owners.*

Council of Europe standards in the area recommend publication of ownership structures and many countries in the region do this: for example in Serbia and North Macedonia etc.

The CRA requested the opinion from the PDPA in 2017. See discussion here:

Registar medija kao važan doprinos transparentnosti medijskog vlasništva u BiH, Media.ba, 14. august 2018.

<https://media.ba/bs/magazin-novinarstvo/registar-medija-u-bih>.

¹²⁸ Independent Media Empowerment Program (IMEP) (2021) "Mapping of media web portals" https://civilnodrustvo.ba/wp-content/uploads/2021/06/Istrazivanje_Mapiranje-medijskih-web-portala-u-BA-1_compressed.pdf.



4.3.3. Promotion of European works

One of the key aims of the AVMS Directive is the promotion of European works, achieved by placing quota requirements on broadcasters (Article 16) and requirements on broadcasters that support the independent production sector (Article 17). Relevant definitions are examined above under section 4.3.1.2. These obligations are covered in the Rule on the Provision of AVMS.

**Table 53. Promotion of European works on linear services**

AVMSD and the promotion of European works (linear services) (Articles 16 and 17)	In line with AVMSD	References
The use of majority quota obligations (for example more than 50% of content) to promote European works.	Yes – aligned with the 2018 AVMSD Obliges services to reserve at least 51% of its programme content annually for European works, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping.	Article 14 (5) of the Rule on the Provision of audiovisual media services 2023
Exceptions to this rule.	Yes – aligned with the 2018 AVMSD Obligations do not apply to licensees whose services are of local character, or to thematic channels, including channels for teleshopping and self-promotion.	Article 14 (7)
Rules where a minimum percentage of content (for example 10%) of content broadcast (or of programme budgets) should be European works created by producers who are independent of broadcasters.	Yes – aligned with the 2018 AVMSD Obligation to reserve, in an appropriate manner, at least 10% of its programme content for European works to be created by independent producers.	Article 15 (2) of the Rule on the Provision of AVMS 2023

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The regulatory framework is aligned with the AVMS as regards linear services. The 2018 AVMS Directive has also increased the obligations of non-linear on-demand audiovisual services regarding the promotion of European works (Article 13).

Table 54. Promotion of European works on on-demand audiovisual services

AVMSD and the promotion of European works (on-demand) (Article 13)	In line with AVMSD	References
Requirement that AVMS providers of on-demand AVMS secure at least a 30% share of European works in their catalogues and ensure prominence of those works.	Yes – aligned with the 2018 AVMSD	Article 35 (3), Rule on provision of audiovisual media services 2023
Exemptions for AVMS providers with a low turnover or a low audience?	Yes – aligned with the 2018 AVMSD Obligations are not applicable to AVMS on demand with low turnover or low audience.	As above, Article 35 (4)



Reference to European Commission guidelines regarding a) the calculation of the share of European works, and b) definitions of low audience and low turnover of services?	This will be taken into account in updating the "Instruction for reporting on the share of European works and European works of independent producers."	
Inclusion of any financial contribution obligations for services targeting the country?	No	

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

The Rule on provision of audiovisual media services, adopted 18 May 2023 by the Council of the CRA, updates the framework and has included obligations regarding on-demand AVMS. According to the information provided in the European Audiovisual Observatory's survey, the Rule also updated the former definition of an independent producer in order to ensure proper implementation; among other changes, the expression "licensee" was substituted with the expression "any television broadcaster".

4.3.4. Rules on audiovisual commercial communications

This section provides an overview of the rules on ACCs and their alignment with the AVMS Directive in terms of identification, content, placement, volume, and with regard to prohibited ACC in relation to certain goods and services have been included. The protection of minors in relation to ACC has been dealt with above under section 4.3.2.3.

Table 55. Audiovisual commercial communications (ACCs)

The AVMSD and ACCs (Articles 9,10,11 and 23)	In line with the AVMSD	References
ACC should be recognisable. Surreptitious ACC shall be prohibited and ACC shall not use subliminal techniques.	Yes – aligned with the 2018 AVMSD in the current Code almost verbatim.	Code on Commercial Communications, 2023, Article 4
ACC shall not prejudice respect for human dignity, promote discrimination, encourage behaviour prejudicial to health or safety, or encourage behaviour grossly prejudicial to the protection of the environment.	Yes – aligned with the 2018 AVMSD in the current Code verbatim.	As above
ACC for the prescription of medicinal products and medical treatment shall be prohibited.	Yes – aligned with the 2018 AVMSD in the current Code verbatim.	As above, Article 6
Rules on sponsorship – types of programmes where prohibited – and types of goods and services that cannot sponsor	Yes – aligned with the 2018 AVMSD Prohibited sponsorship by public or private legal or natural persons whose principal activity is the manufacture or sale of cigarettes and other tobacco	As above, Article 18



	<p>products (including electronic cigarettes and refills).</p> <p>Those involved in the manufacture or sale of medicines and medical devices and provision of medical treatments, may sponsor audiovisual media services and radio media services or programmes by promoting their name, trademark, image or activities, but not the medicines, medical devices and medical treatments available only on prescription or a referral.</p> <p>News and current affairs shall not be sponsored.</p>	
No product placement (PP) in news, current affairs, consumer affairs, religious programmes or children's programmes.	<p>Yes – aligned with the 2018 AVMSD in the current Code.</p> <p>PP prohibited in news and current affairs programmes, consumer affairs programmes, religious programmes and children's programmes.</p>	As above, Article 19
PP should not affect the responsibility and editorial independence of the AVMS provider; it should not directly encourage the purchase or rental of the product; nor should it give undue prominence to the product.	Yes – aligned with the 2018 AVMSD in the current Code.	As above, Article 19
Viewers shall be clearly informed of the existence of PP in a programme.	Yes – aligned with the 2018 AVMSD	As above, Article 20
Are there limits on the proportion of television advertising spots and teleshopping spots throughout the day or during particular time periods?	<p>Yes – aligned with the 2018 AVMSD</p> <p>The Code introduces proportion limits: 20% between 6.00 a.m. and 18.00 and between 18.00 and 24.00 for commercial broadcasters; 10% between 6.00 a.m. and 18.00. and between 18.00. and 24.00. for public broadcasters and for public service broadcasters.</p>	As above, Articles 10 and 21
Are there exceptions to these rules (on limits of volume), for example for self-promotion, sponsorship, PP?	<p>Yes – exceptions are for self-promotion of their own programmes, as well as ancillary products and services directly derived from these programmes and services, sponsorship announcements and PP; announcements made in connection with other services in their ownership or those owned by affiliated companies; advertisements in the public interest and calls for humanitarian action, if they are broadcast free of charge, and neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots.</p>	As above, Article 10

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey



Following the adoption of the new Code on Commercial Communications in February 2023, the legislation on audiovisual commercial communications fully aligns with the 2018 AVMS Directive. With regard to the self-regulation of ACCs, there is no association of the advertising industry that could implement self-regulation or be entrusted with co-regulation in this area. The establishment of such an association was envisaged by a Draft Advertising Law prepared in 2019¹²⁹ but the law was never adopted. The CRA's Media and Information Literacy (MIL) activities (described above in section 4.3.2.3) include advertising literacy as one of the topics.

4.3.5. Provisions applicable to video-sharing platforms (VSPs)

An important novelty of the 2018 AVMS Directive was expanding the scope to include VSPs. The relevant definitions in this area were addressed in section 4.3.2 above. The establishment of the jurisdiction of VSPs was covered under section 4.3.1.3 above. In Bosnia and Herzegovina, on 24 February 2023, the CRA adopted a Rule on the Provision of video-sharing platform services in order to align with these provisions.

Table 56. Obligations on video-sharing platforms regarding content

The AVMSD and provisions on VSPs 28b	In line with the AVMSD	References
Protecting minors from harmful content in programmes, user-generated videos and ACCs; protecting the general public from programmes, user-generated videos and ACCs containing incitement to violence or hatred as well as from criminal content – provocation to commit a terrorist offence; child pornography; racism and xenophobia.	Yes – the Rule follows the provision in the 2018 AVMSD	Rule on provision of video-sharing platform services, 2023, Article 7 (1)
VSP providers need to comply with the obligations (Article 9(1)) for ACCs they control (market, sell or arrange), and those controlled and uploaded by others.	Yes – the Rule follows the provision in the 2018 AVMSD almost verbatim.	As above, Article 8 (1)
VSPs should clearly inform users where programmes and user-generated videos contain ACC.	Yes – the Rule follows the provision in the 2018 AVMSD	As above, Article 8 (3)
VSP should reduce the exposure of children to ACCs for foods and beverages containing fat, trans-fatty acids, salt or sodium and sugars (HFSS).	VSPs are required develop codes of conduct, which aim to reduce the exposure of children to ACCs for foods and beverages containing fat, trans-fatty acids, salt or sodium and sugars (HFSS).	As above, Article 8 (6)

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

¹²⁹ <https://europa.ba/?p=61396>.



As is apparent above, this new Rule aligns directly with the AVMS Directive. The 2018 AVMS Directive also outlines a range of measures that can be used by VSPs in order to ensure that the protections outlined above, and the requirements regarding ACCs are properly implemented. In addition, the AVMS Directive outlines the role of the NRA in assessing the measures put in place.

Table 57. Obligations on video-sharing platforms – measures and supervision (VSPs)

The AVMSD and provisions on VSPs (Article 28b)	In line with the AVMSD	References
Measures introduced by national rules?		
Adapting Terms and Conditions for users of VSPs to include obligations relevant to content and/or ACCs	Yes – all measures are mentioned and it is for the VSP to choose the appropriate measures.	Rule on the Provision of video-sharing platform services, 2023, Article 7 (3a) and Article 8 (4a)
Possibility to declare the presence of ACCs in user-generated video	Yes – see above.	As above, Article 8 (4b)
Reporting or flagging systems to report harmful content to the VSP provider	Yes – see above.	As above, Article 7 (3b and c)
Age verification systems for users	Yes – see above.	As above, Article 7 (3d)
Content rating systems for users	Yes – see above.	As above, Article 7 (3e)
Parental control systems	Yes – see above.	As above, Article 7 (3f)
Procedures for complaints to the VSP	Yes – see above.	As above, Article 7 (3g)
Providing media literacy measures and tools and raising users' awareness of those measures and tools	Yes – see above.	As above, Article 7 (3h)
Implementation and supervision		
Protection of the personal data of minors	Yes – the draft follows the provision in the 2018 AVMSD almost verbatim.	As above, Article 7 (6)
NRA tasked with assessing the appropriateness of the measures taken by VSPs?	Yes – aligned with the 2018 AVMSD. The CRA shall establish the mechanisms to assess the appropriateness of the measures taken by VSP providers.	As above, Article 7 (5) and Article 8 (5)
Are there out-of-court redress mechanisms available for the settlement of disputes between	Yes – aligned with the 2018 AVMSD. The Agency will resolve disputes between the users and VSP providers	As above, Article 9



users and VSPs, and can users assert their rights before a court in relation to VSPs?	in relation to the obligations stipulated by this rule.	
Encourage the exchange of best practice between VSPs regarding co-regulatory codes	Not envisaged in the current draft.	

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

Regarding appropriate measures to be taken and the role of the CRA, the Rule reflects the AVMS Directive with the inclusion of all potential measures. It is up to the VSP services to choose for themselves the appropriate measures, and the CRA will establish mechanisms for assessing the appropriateness of these measures. The Rule includes a provision (Article 9) on dispute Resolution:

In accordance with the competences prescribed by the Law on Communications, the Agency resolves disputes between users and providers of video-sharing platforms in relation to the obligations prescribed by this Rule.

With regard to the possibility for users to assert their rights before a court, this is stipulated in Article 47 of the Law on Communications.

4.3.6. Concluding remarks and summary of findings

Bosnia and Herzegovina aligned with the 2010 AVMS Directive largely via secondary legislation; alignment with the 2018 AVMS Directive was also achieved this way. The definitions, the range of provisions, the general principles and the key values enshrined in the AVMS Directive are therefore covered in the updated regulatory rules and codes.

The draft Codes intended to align with the AVMS Directive were published for public consultation between 23 September and 6 November 2022. Three of the Codes were adopted by the Council of the CRA on 24 February 2023: the Code on Commercial Communications, the Code on Programme Content, and the Rule on the provision of video-sharing platform services. The new Rule on the provision of audiovisual media services was adopted May 18, 2023.

On a more practical level, the issues that inhibit the principle of independence of the CRA are highlighted with reference to reports and opinions. It is only via a change in the primary law (for example the development of a new Law on Electronic Media) that any enhancement of the independence of the CRA can be achieved. A number of other concerns were noted according to the information provided in the European Audiovisual Observatory's survey, such as the issue of freedom and safety of journalists.

As can be noted from the text above, the CRA plays an important role in the implementation of the *acquis* and in developing policies in areas such as media literacy and accessibility.



4.3.7. The list¹³⁰ of countries participating in the Creative Europe Programme 2021 – 2027 was recently amended, in February 2024. List of relevant documents, reports, opinions, etc.

Table 58. Relevant documents, reports and opinions

Title	Main topics/ themes	Link
European Commission – Directorate-General for Neighbourhood and Enlargement Negotiations (2022): Bosnia and Herzegovina Report 2022	Commission report assessing progress of BA with regard to potential candidacy for EU membership.	In English: https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Bosnia%20and%20Herzegovina%20Report%202022.pdf
European Commission – Directorate-General for Neighbourhood and Enlargement Negotiations (2021): Bosnia and Herzegovina Report 2021	Commission report assessing progress of BA with regard to potential candidacy for EU membership.	In English: https://neighbourhood-enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2021_en
2021 Vibrant Information Barometer produced by IREX	Examines how information is produced, spread, consumed, and used.	In English: https://www.irex.org/sites/default/files/pdf/vibe-bosnia-herzegovina-2021.pdf
Independent Media Empowerment Programme (IMEP) (2021) “Mapping of media web portals”. Supported by USAID and <i>Centar za promociju civilnog društva</i> (CPCD)	Examination of the online news media sector in BA.	In English: https://civilnodrustvo.ba/wp-content/uploads/2021/06/Istrazivanje_Mapiranje-medijskih-web-portala-u-BA-1_compressed.pdf
Western Balkans Journalists’ Safety Index – Bosnia and Herzegovina 2020 Narrative Report	Research on the safety of journalists.	In English: https://bhnovinari.ba/wp-content/uploads/2021/12/BA-ENG.pdf

¹³⁰ https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/crea/guidance/list-3rd-country-participation_crea_en.pdf



Furnémont, J.F. (2020), Review of the provisions of the Code on audiovisual media services regarding protection of minors. Study prepared under the JUFREX project	Review of protection of minors rules in BA.	In English: https://rak.ba/en/brdcs-t-media-literacy
Cappello, M. (ed.) (2019), <i>The independence of media regulatory authorities in Europe</i> , IRIS Special, European Audiovisual Observatory, Strasbourg	Comparative research on the independence of NRAs	In English: https://rm.coe.int/the-independence-of-media-regulatory-authorities-in-europe/168097e504

Source: Response of national expert of Bosnia and Herzegovina to European Audiovisual Observatory standardised survey

4.3.8. Data compilation

This country report is based on information and materials supplied by the national expert Asja Rokša-Zubčević, COO of Wagner-Hatfield consultancy company.