



4.10. ES – Spain⁸⁰

4.10.1. Key findings

In Spain, Article 28b (1) of the Audiovisual Media Services Directive (AVMSD) has been transposed verbatim into the legislation. VSP providers are required to protect minors from programmes, user-generated videos and audiovisual commercial communications that may harm their physical, mental, or moral development.

In December 2023, the Spanish National Markets and Competition Commission (CNMC) has published a public consultation on criteria for ensuring that VSPs age verification measures are adequate. The main objective is to receive stakeholders' opinion on age verification mechanisms and measures for protection of minors from harmful content.⁸¹

Initiatives are underway to develop technology solutions for verifying users' age to protect children from exposure to harmful content.⁸² The proposed technology solution, which is expected to be operational in middle of 2024, will require from users to verify their age through identification documents, health residence cards, driver's licenses, or passports. The technology has been developed by the Spanish Royal Mint, following a set of guiding principles by the National Data Protection Agency.⁸³

4.10.2. National transposition of Article 28b (1) AVMSD

Title and type of legislation	Key excerpts of legal measures	Link
Law 13/2022 of 7 July, General Law on Audiovisual Communication was notified to the	Article 86 Video-sharing platform service providers shall guarantee compliance with the principles set out in Articles 4, 6, 10, 12, 14 and 15 and in Article 7(1) in respect of content distributed via their services	Legislation

⁸⁰ The summary on Spain incorporates feedback received from Pedro Domingo Martín Contreras, Senior Legal Advisor at the Directorate of Telecommunications and Audiovisual at the National Commission of Markets and Competition (*Comisión nacional de los mercados y la competencia*, CNMC), during the checking round with the national regulatory authorities.

⁸¹ <https://www.boe.es/buscar/act.php?id=BOE-A-2022-11311&p=20220708&tn=1>

⁸² <https://www.aepd.es/prensa-y-comunicacion/notas-de-prensa/aepd-presenta-sistema-verificacion-edad-para-protger-a-menores-de-edad>

⁸³ AEPD (2023). Age Verification and Protection of Minors from Inappropriate Content. <https://www.aepd.es/guias/decalogo-principios-verificacion-edad-proteccion-menores.pdf>



Title and type of legislation	Key excerpts of legal measures	Link
Commission (Articles 86 and 88.a)	and in compliance with the obligations laid down in this title. Article 88 The providers of VSP services will adopt measures to protect minors from programmes, user-generated videos and audiovisual commercial communications that may harm their physical, mental or moral development. Audiovisual media service providers will provide sufficient information to the viewers about the programmes. For this purpose, the providers will use a system of descriptors adopted by means of a co-regulation agreement. ...	

4.10.3. Types of measures put in place by VSPs

All of the larger VSPs featured in this report, and this includes many which are not under the jurisdiction of Spain but which can be accessed within the territory, have imposed a minimum age requirement of 13, with the exception of Vimeo (16 or above the minimum age required by law), BitChute (18) and Onlyfans (18). Age verification systems mostly require users to indicate their date of birth, without additional verifications, but other solutions include age verification by credit card, by the uploading of photo ID, or the use of age estimation technology. Various types of parental control measures responding to the specificities of each VSP can be found (blocking and filtering, recording of activities, limiting time of use, viewing history). X (formerly Twitter) and Vimeo have no such measures, despite being accessible to minors. Neither do BitChute or OnlyFans, as they require users to be over 18. All of the larger VSPs featured in this report make use of flagging and reporting mechanisms as well as other content moderation tools. These are detailed in the tables in sections 3.2 and 3.3.



4.10.4. VSPs under the jurisdiction of the national regulatory media authority

Name of service	Genre	Targeted countries ⁸⁴
Mtmad	Generalist	Spain

4.10.5. Measures specific to adult VSPs in general

The most common age verification measures applied by adult VSPs accessible in Spain is self-declaration of age. However, in July 2023 the national media regulatory authority, *Comisión nacional de los mercados y la competencia* (CNMC), issued a decision in relation to pornography themed VSPs operated by TECHPUMP S.L. stating that self-declaration is not sufficient for limiting access to minors.⁸⁵ Some do require registration using a credit card, which can provide some additional evidence of age.

4.10.6. Additional rules referring especially to influencers

In terms of special regulations for the protection of minors related to influencers, no additional rules were in place at the time of the national expert's verification. However, Article 94 of the Spanish Audiovisual Law sets out criteria for users of VSPs that must be considered "users of special relevance" and as such are required to register as audiovisual media services. Therefore, significant influencers may be regulated as audiovisual media services. The Ministry of Economic Affairs and Digital Transformation has drafted a specific decree that obliges influencers to register in the General Registry of Audiovisual Media Service providers.⁸⁶ According to the text, influencers will be obliged to protect minors, but no rules were yet in force at the time of writing.

⁸⁴ Name of service, genre and targeted countries as indicated in the European Audiovisual Observatory's MAVISE database, as accessed in December 2023.

⁸⁵ The CNMC in its Decision of 27 July 2023 ([REQ/DTSA/002/23/TECHPUMP](https://www.cnmc.es/sites/default/files/4628780.pdf)).

⁸⁶ <https://www.cnmc.es/sites/default/files/4628780.pdf>