

A specific challenge for effective action by regulatory authorities: cross-border co-operation



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- **Key principles remain**
 - Freedom of reception and retransmission
 - Country-of-origin principle

- **Need for regulatory action varies depending on the context (1989 ≠ 2025)**

- One AV media provider → one NRA
- Targeting audiences
- Development of non-linear media services, platforms and intermediary services
- Foreign influence

- AVMSD
- ECD
- DSA
- EMFA
- Political Advertising Regulation
- P2B Regulation
- AI Act

The “targeted country approach” – Exceptions in Union law

- Art. 3(4) ECD [in respect of a given information society service]
- Art. 3(2) and Art. 4 AVMSD [suspension in the targeted member state, ‘anti-circumvention procedure’]
- Art. 13(2) AVMSD [financial contribution for media services providers targeting audiences]
- Art. 9 DSA [By issuing orders to providers of intermediary services on a cross-border basis]
- Art. 15 EMFA [enforcement of the obligations by video-sharing providers under the AVMSD]

The “targeted country approach” – Exceptions in Union law

- Extraterritorial clauses (AVMSD, EMFA, DSA, Political Advertising Regulation, IA Act and P2B Regulation)

Providers from third countries	Connection criterion	Source in Union law
Media service providers	Using a satellite up-link situated in a member state or using a satellite capacity appertaining to a member state	Article 2(4) AVMSD
Media service providers	Providing media services that, irrespective of their means of distribution or access, target or reach audiences in the Union	Article 17(1) EMFA
Providers of intermediary services	Having a “substantial connection to the Union” resulting from specific factual criteria, such as a significant number of recipients of the service or the targeting of activities at EU member states	Article 3(e) DSA
Providers or sponsors of political advertising service	The political advertisement is disseminated in the Union, is brought into the public domain in one or several member states or is directed at Union citizens	Article 2(1) Political Advertising Regulation
Providers	Placing on the market or putting into service AI systems or placing on the market general-purpose AI models in the Union	Article 2(1) (a) AI Act
Providers and deployers of AI systems	The output produced by the AI system is used in the Union	Article 2(1) (c) AI Act
Providers of online intermediation services and online search engines	Offering goods or services to consumers located in the Union through those services or engines	Article 1(2) P2B Regulation

The “targeted country approach” – Recent initiatives of EU member states

- France
- Germany
- Italy
- Belgium

Examples

- Financial contribution to European works (Art. 13(2) AVMSD)
- Appropriate prominence of AVMS of general interest (Art. 7a AVMSD)?

Concrete cross-border issues: financial contribution to European works, foreign influence, obligations of VSP providers and other providers of intermediary services

Mechanisms on cooperation or mutual assistance: AVMSD, the EMFA, the DSA, the Political Advertising Regulation, the AI Act and the ECD

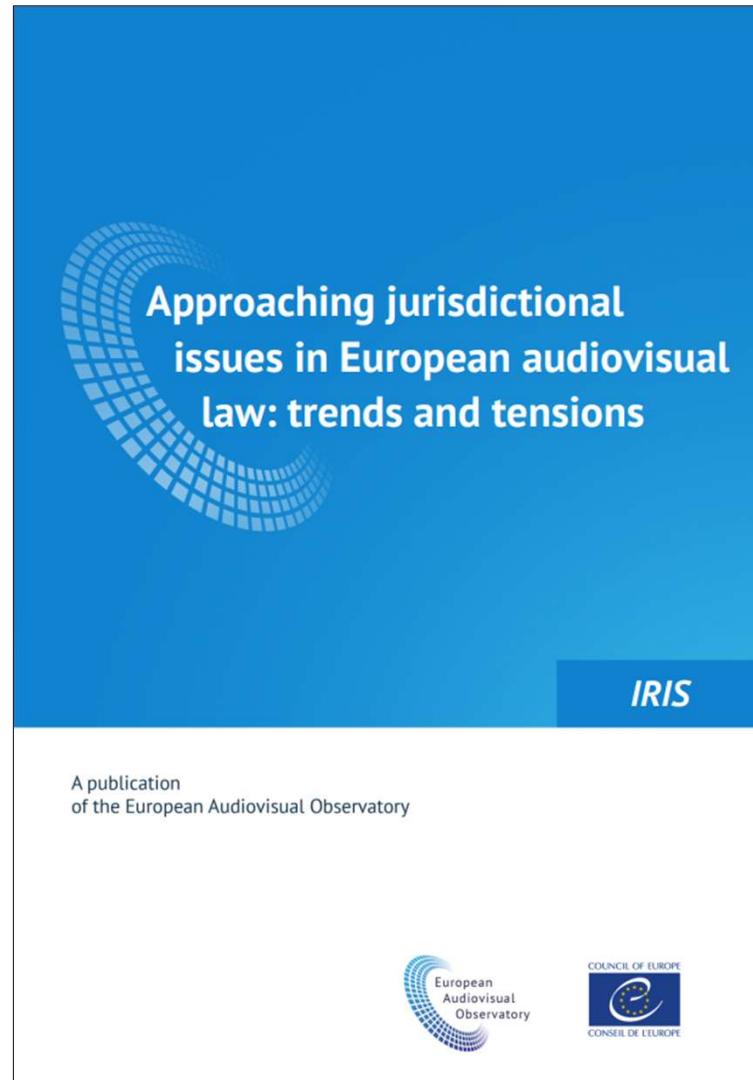
COOPERATION/MUTUAL ASSISTANCE BETWEEN REGULATORS

Possible cross-border issues			
Issue	Material law concerned	Procedure name	Legal basis for procedure
Items of content violating national law implementing the AVMSD (Audiovisual media services inciting violence or hatred, containing public provocation to commit a terrorist offence, impairing the physical, mental or moral development of minors (including gratuitous violence and pornography), non-recognisable commercial communication)	Articles 6(1), 6a(1), 9(1) AVMSD	Cooperation request	Article 14 EMFA
Audiovisual media service inciting violence or hatred, impairing the physical, mental or moral development of minors (including gratuitous violence and pornography), prejudicing or representing a serious and grave risk of prejudice to public health	Articles 6(1) (a), 6a(1) AVMSD + public health	Provisional derogation procedure I	Article 3(2) AVMSD
Audiovisual media service containing public provocation to commit a terrorist offence, prejudicing or representing a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence	Articles 6(1) (b) + public security, including national security and defence	Provisional derogation procedure II	Article 3(3) AVMSD
Audiovisual media service containing public provocation to commit a terrorist offence, prejudicing or representing a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence	Articles 6(1) (b) + public security, including national security and defence	Provisional derogation procedure in urgent cases	Article 3(5) AVMSD
Specific items of content violating EU law or national law in compliance with EU law	Article 9 DSA	Order to act against the item of content	Article 9 DSA
Infringement of the due diligence obligations of a provider of an intermediary service	Chapter III DSA	Cross-border cooperation among DSCs	Article 58 DSA
Infringement of the due diligence obligations of a provider of an intermediary service	Chapter III DSA	Referral to the European Commission	Article 59 DSA
Infringement of the due diligence obligations of a provider of an intermediary service	Chapter III DSA	Joint investigations (DSC COD + other DSCs concerned)	Article 60 DSA
Obligations of VSP providers (appropriate measures to protect minors from programmes, user-generated videos and AV commercial communication which may impair their physical, mental or moral development; the general public from those pieces of content containing incitement to violence or hatred; the general public from those pieces of content containing dissemination of a criminal offence under EU law (child pornography and racism/xenophobia)	Article 28b(1), (2) and (3) AVMSD	Request for enforcement	Article 15 EMFA
VSP providers (as providers of an information society service)	See Article 28a(5)	Derogation of the COO principle	Article 3 ECD
Systemic infringements of the DSA by providers of VLOPs or VLOSEs ("insufficient content moderation, systemic non-compliance with the obligations associated with orders under Article 9 DSA")	DSA	Reasoned request to the EC to assess the matter	Article 65(2) Only for DSCs
Media services originating from outside the EU or provided by media service providers established outside the EU that prejudice or present a serious and grave risk of prejudice to public security	Prejudice to public security	Coordination of measures	Article 17 EMFA
Illegal content in intermediary services, in case an order regarding action under Article 9 DSA is ignored by the intermediary		Derogation of the COO principle	Article 3 ECD

Independent advisory boards

- European Board for Media Services (Media Board)
- European Board for Digital Services
- European Artificial Intelligence Board
- Network of national contact points

European Platform of Regulatory Authorities (EPRA)



Thank you!



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