



## PRESS RELEASE No 87/26

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Judgment of the Court in Joined Cases C-188/24 | WebGroup Czech Republic and NKL Associates and C-190/24 | Coyote System

### **Information society services: Member States may require age verification for users of pornographic websites and prohibit the rebroadcasting of information relating to certain roadside checks on their territory**

*Information society service providers are liable for the content and information they control*

In response to questions referred by the Conseil d'Etat (Council of State, France), the Court of Justice, first, specifies the conditions under which Member States may impose an obligation to verify the age of users of pornographic websites and prohibit the rebroadcasting of information relating to certain roadside checks on their territory. The Court confirms that, under the system of the Directive on electronic commerce, such obligations and prohibitions, in principle, fall within the jurisdiction of the Member State in which the providers of the services concerned are established. Nevertheless, other Member States may impose such obligations and prohibitions on providers which are not established on their territory, subject to compliance with the conditions laid down in that directive, in particular where that proves necessary on grounds of public policy, security or safety. Second, the Court states that the operator of an information society service cannot be exempted from its liability for the information stored and rebroadcast over which it has control. That is the case where the operator determines, by means of an algorithm, under what conditions, how and in which order of priority that information is or is not rebroadcast.

In France, publishers of pornographic websites are required to implement technical age verification mechanisms to prevent minors from accessing those sites. In addition, providers of geolocation driving assistance services may be prohibited from rebroadcasting the information transmitted by their users relating to certain roadside checks on French territory.

Two decrees implementing those measures are the subject of appeals for annulment before the Council of State, France. In Case C-188/24, the Czech companies WebGroup Czech Republic and NKL Associates are challenging the obligations imposed on publishers of pornographic websites. In Case C-190/24, the French company Coyote System challenges the prohibition on drawing attention to certain roadside checks.

Those companies argue, *inter alia*, that the contested measures disregard the '**country of origin**' principle enshrined in the **Directive on electronic commerce** <sup>1</sup> and which aims to ensure the free movement of information society services within the European Union. According to that principle, which implements mutual recognition between Member States in this field, services falling within the 'coordinated field' <sup>2</sup> are subject solely to the law of the Member State of establishment.

Hearing a referral from the Council of State, France, the Court first states that **the contested measures fall within the coordinated field**. That field is not limited to the requirements governed by the harmonisation provisions of the directive, but in principle covers any requirement relating to access to or the pursuit of an information society service.

Next, the Court finds that France's **application** of the contested measures **to service providers established in other Member States** constitutes a restriction on the free movement of the services concerned. However, the directive **permits, under certain conditions**, such measures to be applied also to service providers not established within their territory. In

the present case, the measures at issue pursue **objectives recognised by the Directive**, including, in particular **public policy**, which covers the **protection of minors**, and **public security**, covered by the prohibition on rebroadcasting information relating to certain roadside checks. Furthermore, they appear **proportionate** in the light of those objectives. In addition, those measures appear to cover specific information society services which actually prejudice those objectives and take the form of **individual decisions** giving formal notice to comply or imposing a prohibition, adopted on the basis of national legislation.

**However, except in cases of urgency, before taking such measures**, it is necessary, first, to **request the Member State of establishment** of the service provider concerned **to take appropriate measures itself** and, second, to **notify** the intention to adopt those measures to the European Commission and to that Member State.

Provided that all those conditions are met, a Member State **may** therefore **require** information society services providers established in other Member States **to establish a system for verifying the age of users** to prevent access by minors to their pornographic websites, or **prohibit** such providers from **rebroadcasting**, as part of their geolocation driving assistance services, **information relating to certain roadside checks**. It is for the referring court to determine whether the contested measures satisfy those conditions.

Finally, the Court rules on the question whether a provider of such services may be exempted from its liability on the ground that the information it stores and rebroadcasts is provided by its users. In that regard, the Court recalls that, in order to be classified as a **'hosting'** provider, which may, in principle, **benefit from an exemption from liability for the information stored at the request of a user**, that provider must have neither knowledge of nor control over that information. As it is, a provider which **determines, by means of an algorithm, under what conditions, how and in which order of priority that information is or is not rebroadcast, exercises control** over that information, with the result that it is not exempted from liability. However, even in the event of such an exemption, the service provider concerned may be prohibited from rebroadcasting information relating to certain roadside checks for reasons of public policy, security or safety.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

<sup>2</sup> The coordinated field covers the requirements laid down by the legal systems of the Member States and are applicable to information society service providers or information society services, regardless of whether they are of a general nature or specifically designed for them.