



SAEIMA OF THE REPUBLIC OF LATVIA  
EUROPEAN AFFAIRS COMMITTEE

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Riga, 26 November 2015  
No. 143.9/16-94-12/15

**Marc Angel**

Chairman of the Committee on Foreign and European Affairs,  
Defence, Cooperation and Immigration of the Chamber of Deputies  
of the Grand Duchy of Luxembourg

Dear Marc,

Taking into account that the Saeima is now deciding on the State budget for 2016, unfortunately I will not be able to attend the COSAC Plenary meeting in Luxembourg. The European Affairs Committee of the Saeima will be represented by my colleague Mrs Nellija Kleinberga.

However, I would highly appreciate if you could consider and support our amendments proposed for the Draft Contribution of the LIV COSAC, which you will find enclosed.

The issues that we address in our amendments are of high topicality and have been repeatedly addressed in our European Affairs Committee, therefore they remain a high priority in the European Union's agenda.

Furthermore, I enclose also the letter on the proposal of the possible "green card" on the revision of the Audiovisual Media Services Directive 2010/13, which we have distributed to parliaments earlier this week.

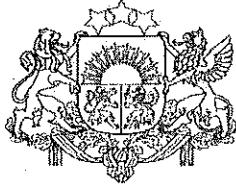
I would appreciate it very much if you could distribute this letter and proposal text for the "green card" also amongst the delegations attending the COSAC. I am confident that our proposal will go well together with discussions on how to strengthen the role of national parliaments, which is planned in the agenda of the COSAC meeting.

Best of success and fruitful debates at the LIV COSAC meeting!

Yours sincerely,

Lolita Čigāne

Chairperson of the European Affairs Committee  
of the Saeima of the Republic of Latvia



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Riga, 23 November 2015  
No. 142.9/16-92-12/15

Dear Colleagues,

In the light of emerging and recurring phenomenon of spreading propaganda, xenophobia and hate speech in mass media, which undermines the exercise of fundamental rights and basic freedoms, I would like to draw your attention that the Saeima of the Republic of Latvia has initiated a debate for the possible “green card”\* on the revision of the Audiovisual Media Services Directive 2010/13 (AVMSD).

Following the informal Interparliamentary meeting “*Audiovisual Media Services Directive: strengthening the internal market or creating vulnerabilities*” that took place in Riga on 16 November 2015 with the participation of representatives from nine national parliaments, which confirmed the necessity to continue our work on the proposed initiative, please find enclosed the “green card” proposal for your consideration within your parliament/chamber.

During the abovementioned meeting members of national parliaments expressed their views and concerns regarding the complexity and multidimensionality of the regulatory solutions for the mass media. Concerning the “green card” proposal, during the meeting it was agreed that debates on how to amend AVMSD need to be continued in national parliaments in order to provide an opinion that would in a balanced way represent views of parliaments that wish to participate in this initiative.

In this respect, I would highly appreciate to receive your response regarding the draft as proposed for the “green card” by 29 January 2016.

I am confident that such proposal on behalf of national parliaments will bring a valuable contribution for the European Commission reviewing the Audiovisual Media Services Directive 2010/13.

Best regards,

**Lolita Čigāne**  
Chairperson of the European Affairs Committee

\* The green card – enhanced political dialogue opportunity for willing national parliaments to play a proactive role in the EU agenda-setting process by contributing with non-binding suggestions regarding policy or legislative proposals to the European Commission. Source: *Contribution of the LIII COSAC*, [http://parleu2015.lv/files/cosac\\_plenary/final-contribution\\_riga\\_02-06-en.pdf](http://parleu2015.lv/files/cosac_plenary/final-contribution_riga_02-06-en.pdf)

**Proposal for the “green card” on**  
**the revision of the Audiovisual Media Services Directive 2010/13**

The Audiovisual Media Services Directive (AVMSD<sup>1</sup>) is at the core of the EU media regulation. As a true single market instrument, it facilitates free movement of audiovisual media services among the Member States, while safeguarding the fundamental values of media pluralism and freedom, as well as the right to information and freedom of expression as enshrined in Article 11 of the EU Charter of Fundamental Rights.

Since the adoption of the Directive, the audiovisual media industry has undergone significant transformation. Already in its 2013 Green Paper on Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values<sup>2</sup>, the European Commission has acknowledged the phenomenon of convergence of media services; in its recent Communication on a Digital Single Market Strategy for Europe<sup>3</sup>, the Commission announced that the AVMSD should be revised and it will examine whether the current system of rules and their scope should be adjusted. The review of the AVMSD is also featured in the Commission Work Programme for 2015, as part of the Regulatory Fitness and Performance Programme (REFIT), and a public consultation seeking views on the effectiveness of the Directive had been launched earlier this year.

The EU audiovisual landscape is not only affected by new technologies, business models and media services. It inevitably reacts and echoes current geopolitical events and the challenges posed by them, be it the situation in Ukraine, the refugee crisis or rise of Daesh. As a consequence, we are increasingly witnessing a worrying trend of mass media becoming a powerful tool for spreading hate speech, intolerance and propaganda. Against the background of this new technological and geopolitical reality, the review of the Directive, and its fitness for its purpose, is especially welcome.

By this proposal, which is addressed to the European Commission within the framework of the existing political dialogue, we would like to draw its attention to several problematic aspects of the current regulation with regard to the level of protection afforded against hate speech.

More specifically, we call on the European Commission to incorporate the following suggestions in its revised version of the Directive:

**1. To extend the geographic scope of the Directive to providers of audiovisual media services established outside the EU that are targeting EU audiences.**

We note that media services originating outside the EU but targeting EU audiences are becoming increasingly accessible via satellite and internet, whereas it is often uncertain whether and where in the EU they are established, which makes objecting to unacceptable content endorsing incitement to hatred particularly difficult. We invite the European Commission to adopt an *effects-based*, rather than *establishment-based*, approach in order to bring such services within the geographic scope of the Directive.

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<sup>1</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services

<sup>2</sup> <https://ec.europa.eu/digital-agenda/node/51287#green-paper---preparing-for-a-fully-converged-audi>

<sup>3</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, a Digital Single Market Strategy for Europe, COM (2015) 192 final, 6 May 2015

**2. To provide for an accelerated reaction mechanism in cases of violation of prohibition of incitement to hatred.**

By virtue of Article 6 of the Directive, Member States must ensure that audiovisual services provided by media service providers under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality. Manifest, serious and grave infringements of this prohibition entitle Member States, when a number of conditions are met, to derogate from the general principle of freedom of reception and unrestricted retransmission of audiovisual services coming from another Member State. Article 3, paragraph 2, of the Directive lays down specific procedural steps that need to be followed in order to have recourse to such derogations and provisionally restrict retransmission. However, this procedure is manifestly complicated and excessively lengthy; it is hardly effective in cases of serious infringements requiring rapid response.

Therefore we invite the European Commission to adapt the procedure set out in Article 3, paragraph 2, of the Directive to enable competent authorities of the Member States to tackle unacceptable content coming from another Member State through a more accelerated and operational procedure.

**3. To increase the overall level of protection of consumers by allowing Member States to tackle unacceptable content endorsing incitement to hatred in television broadcasts on grounds of a broader set of public policy related considerations.**

As the current regulation stands, there is disparity between permissible derogations from Article 3, paragraph 1, of the Directive in respect of linear and on-demand services. As far the latter category of services is concerned, Member States may take measures to restrict retransmission of audiovisual media services from other Member States on grounds of *inter alia* public policy and public security, including the safeguarding of national security and defence. We invite the European Commission to end this disparity and extend the two aforementioned grounds to derogations in respect of linear services.

## Proposition de “carton vert” sur la révision de la directive sur les services de médias audiovisuels 2010/13

La directive sur les services de médias audiovisuels (SMA<sup>1</sup>) est au cœur de la régulation des médias européens. En tant que véritable instrument du marché unique, elle facilite la libre circulation des services de médias audiovisuels entre les États membres tout en préservant les valeurs fondamentales de liberté et de pluralisme des médias, ainsi que le droit à l'information et à la liberté d'expression consacrés par l'article 11 de la Charte des droits fondamentaux de l'UE.

Depuis l'adoption de la directive, l'industrie audiovisuelle a connu une importante transformation. Dans son Livre Vert de 2013 sur la préparation à un monde audiovisuel totalement convergé : croissance, création et valeurs<sup>2</sup>, la Commission européenne avait déjà reconnu le phénomène de convergence des services de médias; dans sa récente Communication sur la stratégie pour le marché unique numérique en Europe<sup>3</sup>, la Commission a annoncé que la directive SMA devait être révisée en examinant si le système actuel de règles et leur portée devraient être ajustés. La révision de la directive SMA est également mentionnée dans le Programme de travail de 2015 de la Commission faisant partie du Programme pour une réglementation affûtée et performante (REFIT); une consultation publique a aussi été lancée au début de cette année quant à l'efficacité de la directive.

Le paysage audiovisuel dans l'UE n'est pas affecté uniquement par les nouvelles technologies, les modèles d'affaires et les services de médias. Inévitablement, il réagit en reflétant des événements géopolitiques courants et des défis posés, que ce soit la situation en Ukraine, la crise des réfugiés ou la montée de Daesh. Par conséquent, nous constatons une tendance préoccupante qui veut que les médias deviennent progressivement un outil puissant de propagation de la haine, de l'intolérance et de la propagande. Face à ce contexte de la nouvelle réalité technologique et géopolitique, la révision de la directive et de sa pertinence pour les objectifs visés est particulièrement bienvenue.

Par cette proposition adressée à la Commission européenne dans le cadre du dialogue politique existant, nous tenons à attirer son attention sur plusieurs aspects problématiques de la réglementation actuelle en ce qui concerne le niveau de protection contre l'incitation à la haine.

Plus précisément, nous demandons à la Commission européenne d'intégrer les suggestions suivantes dans la version révisée de la Directive :

### **1. Étendre la portée géographique de la directive aux fournisseurs de services médias audiovisuels établis en dehors de l'UE qui visent le public européen.**

Nous constatons que les services de médias provenant de l'extérieur de l'UE destinées au public européen deviennent progressivement accessibles par satellite et internet, alors qu'il n'est pas toujours facile de savoir si et où ils sont établis dans l'UE, donc,

<sup>1</sup> Directive 2010/13/UE du Parlement européen et du Conseil du 10 mars 2010 visant à la coordination de certaines dispositions législatives, réglementaires et administratives des États membres relatives à la fourniture de services de médias audiovisuels

<sup>2</sup> <https://ec.europa.eu/digital-agenda/node/51287#green-paper---preparing-for-a-fully-converged-audi>

<sup>3</sup> Communication de la Commission au Parlement européen, au Conseil, au Comité économique et social européen et au Comité des Régions, un marché unique numérique en Europe, COM (2015) final, le 6 mai 2015

l'opposition au contenu inacceptable incitant à la haine devient particulièrement difficile. Nous invitons la Commission européenne d'adopter une approche *fondée sur les effets* plutôt que celle *fondée sur l'établissement* dans le cadre de la fourniture de tels services dans le champ d'application géographique de la directive.

**2. Prévoir un mécanisme de réaction rapide en cas de violation de l'interdiction de l'incitation à la haine.**

En vertu de l'article 6 de la directive, les États membres veillent, par des mesures appropriées, à ce que les services de médias audiovisuels fournis par les fournisseurs relevant de leur compétence ne contiennent aucune incitation à la haine fondée sur la race, le sexe, la religion ou la nationalité. Une violation manifeste, sérieuses et grave à cette interdiction, autorise les États membres, lorsqu'un certain nombre de conditions sont réunies, à déroger au principe général de liberté de réception et de retransmission sans restriction des services audiovisuels provenant d'un autre État membre. L'article 3, paragraphe 2, de la directive définit les étapes procédurales spécifiques à suivre afin de pouvoir recourir à la dérogation et restreindre provisoirement la retransmission. Toutefois, cette procédure est très compliquée et longue; elle n'est guère efficace en cas des violations graves nécessitant une réaction rapide.

Par conséquent, nous invitons la Commission européenne d'adapter la procédure énoncée à l'article 3, paragraphe 2 de la directive afin de permettre aux autorités compétentes des États membres de lutter contre le contenu inacceptable provenant d'un autre État membre par le biais d'une procédure plus rapide et opérationnelle.

**3. Renforcer, sur le fondement d'un ensemble plus large des considérations liées à la politique publique, le niveau général de protection des utilisateurs en permettant aux États membres de lutter contre le contenu inacceptable incitant à la haine diffusée à la télévision.**

Dans le cadre de la réglementation actuelle, il y a une disparité entre les dérogations autorisées à l'article 3, paragraphe 1er de la directive concernant les services linéaires et les services à la demande. En ce qui concerne cette dernière catégorie de services, les États membres peuvent prendre des mesures pour restreindre la retransmission de services de médias audiovisuels provenant d'autres États membres notamment sur le fondement de la politique publique et de la sécurité publique, y compris la protection de la sécurité et de la défense nationale. Nous invitons la Commission européenne à mettre fin à cette disparité et étendre les deux fondements précités aux dérogations concernant les services linéaires.