



SAEIMA OF THE REPUBLIC OF LATVIA
EUROPEAN AFFAIRS COMMITTEE

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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

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

The Audiovisual Media Services Directive (AVMSD¹) 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 Values², the European Commission has acknowledged the phenomenon of convergence of media services; in its recent Communication on a Digital Single Market Strategy for Europe³, 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.

¹ 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

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

³ 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 as 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.

