



Opinion of the European Board for Media Services

**on the notification by the Hungarian National Media and Infocommunications
Authority concerning envisaged measures regarding the media service provider
CLT-UFA SA pursuant to Article 4 of Directive 2010/13/EU**

18 March 2026

Part I - Background

1. On 6 February 2026, the European Commission sent a formal request to the European Board for Media Services (the “Media Board”) to request an opinion of the Media Board pursuant to Article 4(4), point (c), of the Audiovisual Media Services Directive (“AVMSD”)¹ on the notification, in accordance with Article 4(4)(a) AVMSD, of the intention by National Media and Infocommunications Authority (“NMHH”) to adopt measures against CLT-UFA SA, a media service provider established in Luxembourg and under the jurisdiction of the Autorité Luxembourgeoise Indépendante de l'Audiovisuel (“ALIA”).
2. Article 4 of the AVMSD provides that, where a Member State has adopted stricter rules of general public interest in the fields coordinated by the Directive it may, under certain conditions, adopt measures against a media service provider established in another Member State but providing audiovisual media services directed wholly or mostly towards the territory of the Member State concerned.
3. Article 4(4) of the AVMSD, as amended by Article 28(2) of the European Media Freedom Act (EMFA)² stipulates that the Member State concerned should notify the Commission of its intention to take such measures and that the Commission shall take a decision on the compatibility of the envisaged measures with Union law, after having requested an opinion from the Media Board within three months of receipt of the notification.

¹ Directive 2010/13/EU of the European parliament and Council 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 Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU

4. More specifically, in accordance with Article 13(1)(c) of the EMFA task of the Media Board in this respect is to provide its opinion on the technical and factual issues that arise with regard to Article 4(4) of the AVMSD. In an earlier opinion related to Article 3 of the AVMSD,³ the European Regulators Group for Audiovisual Media Services (ERGA), predecessor of the Media Board pursuant to Article 8 of EMFA, has held that the term “technical aspects” refers to the assessment of the regulatory aspects of such cases, i.e. those aspects that are typically within both the legal and practical remit of national regulatory authorities in their respective jurisdictions. As for the “factual aspects”, these account for all actions, or omissions thereof, of the relevant parties.
5. Although Article 28(2) in conjunction with Article 13 of the EMFA has amended “technical and factual aspects” by “technical and factual issues” that arise with regard to, among others, Article 4(4) point c) of the AVMSD it can be safely interpreted that the Media Boards’ mandate corresponds to the one conferred by the latter Directive.
6. It follows that the Media Board takes the view that the Commission, by requesting it to provide an Opinion on the technical and factual issues under Article 13(1)(c) of EMFA relating to the case at hand refers to its members’ expertise which is typically within both their legal and practical remit in their respective jurisdictions, and more specifically to the assessment of the fulfilment of the strict conditions set out in points (2), (3) and (4) of the Article in the context of the anti-circumvention procedure.
7. In its assessment, the Board will take into consideration all the facts and circumstances of the case as evidenced by the documents produced and brought to its attention by the relevant parties.
8. Accordingly, this opinion shall comprise an evaluation of whether the factual account and circumstances of the case comply with, or fall short of, the regulatory framework set out in Article 4 of the AVMSD, specifically the conditions to which the adoption of measures under Article 4 are subject.

Part II - Factual summary

1/ On 14 February and 28 March 2023, NMHH sent two letters to ALIA – ‘request for intervention’⁴ and ‘Application to intervene’⁵.

9. NMHH informed ALIA that it had received 26 notifications (complaints) in respect of:

³ See recitals 11 and 12 of ERGA Opinion on decision No. 68/1-2 of the Latvian National Electronic Mass Media Council restricting the retransmission of the channel “Rossiya RTR” in the territory of Latvia for 12 months

⁴ MN/28179-14/2022

⁵ MN/28179-25/2022

- Linear broadcasts on the permanent media service RTL Kettő of several episodes of season 11 of *Való Világ* between December 2022- February 2023;
- Media content broadcast on the 24-hour streaming services available via RTL+ (SVOD) of season 11 of *Való Világ*;
- Linear broadcast of the programme '*Showder Klub*' on 10 November 2022 on the permanent media service RTL Kettő.

10. In respect of the media content broadcast on RTL+ of season 11 of *Való Világ*, NMHH stated that in applying Hungarian legislation it established the presumption of a continuous violation of Art. 14(1) and (2) of the Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content (the "Media Act"), which was revised in 2021.

11. In respect of the linear broadcast of several episodes of season 11 of *Való Világ*, NMHH referred to alleged infringements of human dignity (Art. 14(1) and (2) of the Media Act) and incorrect age classification and improper broadcasting time, in respect of Article 9(2)–(7) and Article 10(1)(a)–(e) of Act CLXXXV of 2010 on the revised Media Services and Mass Media (the "Media Services Act").

12. In respect of the linear broadcast of "*Showder Klub*" broadcast on 10 November 2022, NMHH stated that there has been an alleged infringement of Article 17(2) of the Media Act in respect of discriminatory content.

13. With reference to Article 4(2) AVMSD, NMHH invited ALIA to address the problems identified. NMHH proposed that ALIA impose on CLT-UFA a proportionate and sufficiently dissuasive sanction to prevent future violations and that ALIA and NMHH organise consultations and coordinate to address the problems identified.

2/ On 15 June 2023, ALIA responded to NMHH

14. ALIA transmitted its decision⁶ which stated that NMHH's request was inadmissible as it did not align with the objectives of Article 4(2) AVMSD, which is not established with the view to penalising particular audiovisual service providers, but to account for the general public interests of each Member State.

15. In its letter, ALIA informed NMHH that the points raised would be examined in the context of ALIA's own complaints procedure, which requires information necessary to identify the complainants. ALIA requested NMHH to send the necessary information.

3/ On 17 July 2023, NMHH sent ALIA additional information requested by ALIA.⁷

⁶ DEC004/2023-P002-027/2023, P029/2023

⁷ MN/28179-29/2022

16. NMHH transmitted the requested information to ALIA, including the personal data necessary to identify the complainants, and maintained the positions set out in their previous letters.

4/ By decision adopted on 4 September, ALIA closed its examination of the complaints sent by NMHH.⁸

17. On the basis of the information received from NMHH, ALIA explained that it had contacted the complainants to request additional information, the letters sent to the complainants remained unanswered and, in the absence of the requested clarifications, the complaints were closed as they did not comply with ALIA's complaints handling policies. It was concluded that the complaints formed part of a "concerted approach".

18. ALIA mandated its Director to open an investigation into the programmes referred to in NMHH's complaints based on the information in the files.

5/ Between December 2023 and March 2024, NMHH and ALIA exchanged letters regarding the status of the investigation.

19. NMHH sent an enquiry regarding the status of the case on 1 December 2023. On 6 December 2023 ALIA replied stating the investigation was ongoing.

20. On 13 March 2024, NMHH requested information from ALIA on the status of the procedure via e-mail. On 14 March 2024, ALIA informed NMHH that the investigation was ongoing.

6/ On 3 June 2024, ALIA adopted a decision⁹ stating that it had found no violation of applicable law by CLT-UFA in respect of the programme 'Showder Klub' and closed the case.

21. It was concluded that while the programme includes a joke '*liable to stigmatise that part of the population and expose it to public contempt*', "*it cannot be inferred that the programme element as a whole constitutes a discriminatory incitement to hatred*'. It was concluded that the threshold of seriousness sufficient to interfere with freedom of expression and the press through the imposition of sanctions had not been met.

7/ On 19 July 2024, NMHH initiated a consultation with ALIA, moderated by the ERGA Chair, regarding the alleged failure of ALIA to comply with its obligations in the AVMSD and ERGA's Memorandum of Understanding.

22. It was agreed that ERGA would continue to monitor the progress of the case and intervene if necessary.

⁸ DEC008/2023-P002-027/2023 and P029/2023

⁹ DECO14/2024-A002/2023

8/ By decision of 11 November 2024, ALIA concluded that it had found no violation of the applicable law in respect of the programme ‘Való Világ’ (season 11) broadcast on RTL Ketto and available on RTL+. ¹⁰

23. In respect of human dignity, a violation of Luxembourgish rules on the protection of human dignity was not found. However, given the ‘*characteristics, risks and impact of this type of reality tv programme on viewers*’, ALIA in its decision encouraged the media service provider to “*exercise particular vigilance by ensuring that it refrains from broadcasting sequences containing elements which, taken individually or viewed as a whole, may prove to be infringing the right to respect for the dignity of the participants in the programme, of categories of persons or of humanity in general.*”

9/ On 8 January 2025, NMHH sent a letter¹¹ to ALIA “reply and request for information on the cases closed by the decisions indicated below”, concerning the decisions communicated by ALIA.

24. NMHH contested the findings of the decisions taken by ALIA, requested that ALIA find a mutually satisfactory and appropriate solution to the cases in question and requested that ALIA provide additional information on the cases in question.

10/ On 24 February 2025, ALIA by decision¹² rejected this request, as an ex-gratia appeal. This was transmitted to NMHH by letter on 7 March 2025.

25. It was noted that NMHH’s letter did not present any new elements capable of justifying a review of the previously adopted decision.

11/ In March 2025, ALIA imposed a fine of EUR 25,000 on CLT-UFA in respect of a sequence of ‘Való Világ’ season 12 which infringed upon the right to human dignity.

26. The fine was imposed on the basis that a sequence of the programme ‘Való Világ’ season 12 containing non-consensual sexual behaviour infringed upon the right to human dignity.

27. The informal warning given to the media service provider in ALIA’s decision of 11 November, mentioned under point 8, constituted an aggravating factor.

12/ In May 2025, NMHH sent a letter to CLT-UFA – ‘Call for statement’¹³

28. NMHH informed the media service provider that it had assessed the programmes concerned on RTL Kettő and RTL+ media services on the basis of notifications received

¹⁰ DEC024/2024-A001/2023

¹¹ MN/28179-38/2022

¹² DECISION DEC007/2023-D001/2025

¹³ 28179-42/2022

by NMHH and had found that the programmes violated in several respects Hungarian legislation.

29. It was alleged that CLT-UFA was circumventing Hungarian media regulation and the stricter regulatory environment by providing its services predominantly towards Hungary from another Member State. NMHH stated its intention to initiate an anti-circumvention procedure under Article 4 AVMSD and apply legal consequences.

30. CLT-UFA was invited to submit its views and comments on the circumvention and legal consequences within 15 days of the receipt of the letter.

13/ By letter of 8 July, CLT-UFA responded to NMHH – ‘Response to the Call for Statement’

31. CLT-UFA contested that the conditions for invoking the procedure of Article 4 AVMSD were met and argued that no circumvention of Hungarian law by CLT-UFA had taken place and therefore no legal basis existed for NMHH to take the measures proposed.

14/ On 9 January 2026, NMHH notified the Commission¹⁴ of its intention to adopt measures against CLT-UFA pursuant to Article 4 of the AVMSD.

32. The measures which NMHH intends to impose are a fine of HUF 1,050,000 and the publication of a notice on the permanent media service RTL Kettő.

33. In its 9 January 2026 letter, NMHH stated that it had notified ALIA of the envisaged measures.

34. On 4 February 2026, the Commission requested that NMHH complete its notification with the relevant missing information necessary to reach such a decision, in accordance with Article 4(5) AVMSD.

35. The Commission requested the opinion of the Media Board pursuant to Article 4(4) AVMSD on 6 February 2026.

36. Additional information¹⁵ was sent by NMHH to the Commission on Wednesday 18th February, pursuant to the request sent under Article 4(5) AVMSD.

37. In response to a request for observation of involved parties, in accordance with Article 19(6) of the Media Board’s Rules of Procedure, CLT-UFA sent their observations to the Media Board Secretariat on 20 February 2026, additional observations were shared on

¹⁴ K/28179/2022

¹⁵ K/2817 9 /2022

27 February 2026, NMHH sent observations to the Media Board on 20 February 2026, and ALIA sent observations on 25 February 2026.

Part III – Conformity with the Audiovisual Media Services Directive

38. As referred to in paragraph 8 above, the adoption of a measure by a Member State under Article 4 of the AVMSD is subject to conditions set out in the Article. The following section offers an assessment by the Media Board, in accordance with its remit under Article 13(1)(c) of the EMFA, as to whether these conditions have been met.

(i) Stricter rules of general public interest

39. The first condition which must be met in order to trigger Article 4 of the AVMSD is that the Member State demonstrates the existence of **stricter rules** of general public interest **adopted by the requesting Member State** in the fields **coordinated by the Directive**. These rules must be **in compliance with Union law**.

40. NMHH does not specify to which of the generally recognised categories of public interest objectives rules the invoked legislation pertains. However, it can be assumed that the areas referred to in its notification relate to protection of human dignity, the prohibition of the incitement to hatred and the protection of minors can be viewed as legitimate public policy objectives as cited in *Recital 41* and the case-law of the ECJ. Furthermore, those objectives are addressed in the AVMSD. Therefore, it can be concluded that **NMHH is invoking rules of general public interest** as required in Article 4 AVMSD. Furthermore, as the Hungarian rules address human dignity, incitement to hatred and protection of minors, fields which are all addressed by the AVMSD, it can be concluded that **Hungarian rules invoked pertain to “fields coordinated by the Directive”** as required in Article 4 AVMSD.

41. It further needs to be assessed in the following if the cited Hungarian laws constitute **stricter rules** compared to the relevant provisions of the AVMSD

42. As regards the rules on **protection of human dignity**, NMHH states the following in its letter of 9 January to the Commission: *“While Article 6 of the AVMSD generally prohibits the intentional incitement to violence or hatred, the Hungarian legislation - using the powers granted by Article 4 (1) of the AVMSD - sets a more detailed and stricter level of protection than the EU minimum in order to protect human dignity and communities. Pursuant to Section 14(1) of the Press Act, 'The media service provider shall respect human dignity in the media content that it publishes/broadcasts.' As a more specific and stricter explanation of this, Section 14(2) of the Press Act provides as follows: 'No wanton,*

*gratuitous and offensive presentation of persons in humiliating, exposed or defenceless situations shall be allowed in the media content.*¹⁶

43. In this context, the Media Board notes that human dignity is, by its very nature, a comprehensive protective concept aiming at safeguarding fundamental rights (ref. to Article 1 of the EU Charter of Fundamental rights, hereafter “the Charter”: “*Human dignity is inviolable. It must be respected and protected.*”). In this vein, a provision expressly aiming at protecting human dignity does not exclude that national media legislation foresees more detailed rules, or possibly stricter rule. However, a constitutionally granted fundamental right, by its very nature, also encompasses situations as described in paragraph 2 of the Hungarian provision. In this instance, NMHH has not demonstrated that Section 14(2) of the Hungarian Media Act performs such as function within the meaning of Article 4 of the AVMSD. It can be rightly said that Article 14 (2) constitutes, in relation to its first paragraph (the general obligation to preserve human dignity), a more detailed provision, as it targets the depiction of a specific, humiliating situation, thereby prohibiting those types of situations outright. However, in the Media Board’s view, the second paragraph simply appears to concretise one type of situations which may be captured by the first paragraph, and takes the view that overall, the Hungarian legislation in question provides a “more detailed” but not a “stricter” rule. The Media Board also notes, with regard to NMHH’s assertion in Annex 1 p 2 regarding the show “*Valo Vilag*” of its initial submission to the European Commission¹⁷, whereby “*The reality show can itself be a violation of human dignity, especially considering the fact that as a result of the instructions and sanctions, the residents of the villa live for months in an intimidating and hostile environment, are constantly monitored and recorded by multiple cameras, with their privacy completely restricted*” that the concept of human dignity is tested on a regular basis in the audiovisual media, in particular in regard to “reality shows”. However, this must be addressed in relation to individual instances, not the genres of programme. Such shows constitute entertainment programmes available in all Member States and, as such, form part of a pluralistic media landscape giving viewers the freedom of choice (ref. to Article 11 (1) of the Charter: “*Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*”).
44. In this context, it is emphasised that depictions as described in Article 14 (2) of the Media Act are very much subject to context and situation depicted and depend on the latter. Article 6 of the AVMSD states: “The measures taken for the purpose of this Article shall be necessary and proportionate and respect the rights and observe the principles set

¹⁶ Press Act here refers to the Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content, or “Media Act” as cited in this Opinion.

¹⁷ K/28179-50/2022

out in the Charter”. Among such principles, the Charter contains Article 11 (freedom of expression and information) against which the protection of human dignity must be weighed. ALIA quotes, in its Decision of 3 June 2024 with reference to its Decision of 14 March 2022 (p 7), case law of the European Court of Human Rights on Article 10 of the ECHR: *“Freedom...constitutes one of the essential foundations of a democratic society, one of the essential conditions for its progress and for the development of everyone. It applies not only to information or ideas that are favourably received or considered harmless or indifferent, but also to those that offend, shock or worry....”*.

45. This is why the Media Board has doubts as to whether the possibly more detailed provision in Hungarian law pertaining to the depiction of certain humiliating situations amounts to a stricter rule as required by Article 4 AVMSD.
46. **In summary and on the basis of the information at hand, the Media Board considers that NMHH has not demonstrated the existence of stricter rules in respect of human dignity of general interest as applicable.**
47. In its initial submission of 9 January 2026¹⁸, NMHH compares the sanctions which may be imposed on media service providers with regard to infringements. In the absence of harmonisation of European Union legislation in the field of penalties applicable where conditions laid down by arrangements under that legislation are not complied with, Member States are empowered to choose the penalties which seem to them to be appropriate. Member States must, however, exercise that power in accordance with European Union law and its general principles.¹⁹ The Media Board notes that the sanctions provided for in Hungarian legislation provide for the exclusion to participate in tenders (ref. to C-92/23, Hungary vs. EC), thereby, leading to further economic losses. In view of the AVMSD’s objective to foster a diverse media market, imposing such fines (for every breach) could thus have a counterproductive effect on plurality of the media in a given Member State, including possibly chilling effects on the right to freedom of expression. The Media Board further emphasises that the frequency and the nature of sanctions imposed is subject to the discretion of independent national regulators and therefore cannot serve determinative to establish better or more effective enforcement.
48. As regards the general interest objective to prevent **incitement to hatred**, NMHH argues the following in its reply to the European Commission’s request for additional information: *“According to Section 17(1) of the Press Act, ‘The media content must not be suitable for inciting hatred or violence against a nation, community, national, ethnic, linguistic and other minority or any majority, or any religious community or on a member*

¹⁸ K/28179-50/2022 (point 1.3., p 8)

¹⁹ Case C-262/99 Louloudakis [2001] ECR I-5547, paragraph 67; Case C-210/10 Urbán, para. 23

of such communities, on the basis of belonging to that community.' The Hungarian legislation also explicitly extends protection to 'any majority', which reflects a more detailed and broader approach than the wording of the AVMSD.

Section 17 (2) of the Press Act sets a further more stringent limit than the one set out in the Directive, stating that: 'The media content must not be suitable for excluding a nation, community, national, ethnic, linguistic, or other minority or majority, or any religious community.'"

49. In this context, it is recalled that the AVMSD was amended by Directive (EU) 2018/1808 (*"Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality"*) with a view to enhance protection of affected groups. Article 6 was amended as follows (emphasis added): *"...(a) incitement **to violence** or hatred directed against **a group of persons or a member of a group** based on **any of the grounds referred to in Article 21 of the Charter**;"*. Furthermore, Article 21 (1) of the Charter of Fundamental Rights in the EU (2007/C 303/01, hereafter referred to as *"the Charter"*) refers to discrimination based on any ground such as **sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation**, which shall be prohibited. Article 21 (2) of the Charter stipulates: *"Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of **nationality** shall be prohibited."*

50. In relation to NMHH's argumentation that the Hungarian Media Act goes beyond the protection against hatred and violence provided for in the AVMSD as it refers to *"majorities"*, the Media Board points at the fact that members of majorities are equally protected by Article 6 (1)(a) of the AVMSD, in so far as they may also belong to protected categories. Considering that implementing laws are territorial in scope, the prohibition to incite to hatred on the grounds of nationality (e.g. Article 21 (2) of the Charter, combined with the protection of national minorities amounts to the protection of any majority. Such protection may equally be based on the protection of individuals or groups on the basis of belief, political or any other opinion as referred to in Article 21 (1) of the Charter.

51. **The Media Board therefore considers that NMHH has not demonstrated the existence of stricter rules of general interest in respect of incitement to hatred.**

52. With reference to the general objective of the protection of minors, NMHH argues as follows in its reply to the European Commission's request for additional information: *"In*

the area of protecting minors, Hungarian law applies the general requirements set out in Article 6a of the AVMSD in a detailed, mandatory classification and broadcasting regime, enforcing the possibility of stricter regulation provided by the Member States' room for manoeuvre." In particular, Section 9 differentiates between "Category IV" (suitable for 16+ years, watershed 9 pm) and "Category V" (suitable for 18+ years, watershed 10 pm), whereby programmes impairing the physical, mental or moral development of minors as a result of having as their central element violence, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality or direct, naturalistic or gratuitous depiction of sexuality shall be rated as not recommended for persons under eighteen years of age.

53. In its Decision of 11 November 2024 on the cases communicated by NMHH, ALIA notes that pursuant to Articles 8 and 9 of the mentioned Grand ducal regulation, it has granted the media service providers' request, in 2017 for RTL Kettő, and in 2021 for RTL+, to apply Hungarian legislation on the protection of minors as regards the age classification system. Furthermore, ALIA notes that in 2021, thus after ALIA's granting of the media services providers' request, the relevant Hungarian rules were amended, which is reflected in the case at hand by the differentiation between categories IV and V of the (new) Hungarian age classification system.
54. The Media Board notes, in this context, that in the Advocate General's (Capeta) Opinion of 5 June 2025 in Case C-769/22 (European Commission versus Hungary) before the ECJ, reference is made, in Recital 20, to the above-mentioned new Paragraph 9(6) of the Media Services Act. In Recital 284, the Advocate General argues: *"As explained earlier (point 111 of the present Opinion), Hungary has not adduced any such evidence that programmes containing 'LGBTI content' are harmful for the development of minors. Additionally, it was established (see the part of the present Opinion responding to the Commission's fifth plea) that such a restriction interferes with the freedom of expression and information and the right to private life, as well as being discriminatory and running contrary to the human dignity of LGBTI persons. Since any restrictions on free movement of services, including AVMS, must respect fundamental rights, it cannot be accepted that Rule 4 serves the protection of minors."*
55. Furthermore, in Recital 285 of the Opinion, it is held that *"Rule 4 cannot therefore be interpreted as an implementation of Article 6a of the AVMS Directive"*. According to the opinion of Advocate General Capeta, those rules are thus not in compliance with Union law, as they restrict the provision of audiovisual media services and infringe several fundamental rights guaranteed by the Charter without any acceptable justification. As such, following the reasoning of Advocate General's opinion, such national rules cannot be considered to constitute measures validly implementing the AVMSD in conformity

with European Union law. As a matter of fact, in its Conclusions (Recital 363), the Advocate General proposes to the Court:

“- by imposing, by the Media Law, an obligation on media service providers which offer linear media services to classify all programmes the main focus of which is the promotion or portrayal of gender identities that do not correspond to sex assigned at birth, sex reassignment or homosexuality as category V, and thus to broadcast those programmes only between 22.00 and 5.00, and by excluding such programmes from classification as public interest media or as socially beneficial advertising, Hungary has infringed Article 6a(1) of Directive 2010/13, Articles 1, 7, 11 and 21 of the Charter and Article 2 TEU;

56. Without having to consider whether a “*stricter*” standard of the general interest objective may be pursued by the requesting Member State, and although the case is still pending before the ECJ, the Media Board, required to give its opinion on the factual and technical issues with regard to Article 4(4) within the given deadline, asserts that a provision raises doubts with its compatibility with the Charter.
57. **The Media Board therefore considers that NMHH has not sufficiently demonstrated the existence of stricter rules of general interest in respect of minors, which are in compliance with Union law.**

(ii) Audiovisual media services wholly or mostly directed towards the territory of the requesting Member State

58. Article 4(2)b AVMSD states that a lawful application of the circumvention clause requires that an audiovisual media service must be wholly or mostly directed at the requesting Member State.
59. Recital 42 of Directive 2010/13/EU establishes that it may be referred, in this context, to indicators such as the origin of the television advertising and/or subscription revenues, the main language of the service or commercial communications targeted specifically at the public of the Member State where they are received. It is undisputed that the media services in question, including the relevant programmes, bear Hungarian names and are in Hungarian. While in some Member States Hungarian is considered as an official minority language (such as Romania, Slovakia, Austria), Hungarian is the only official language in Hungary. In addition, the MAVISE Database of the European Audiovisual Observatory indicates that RTL Kettő and RTL+ are directed towards Hungary.

60. **The Media Board therefore considers that the relevant audiovisual media services RTL Kettő and (the Hungarian version of) RTL+ are wholly or at least mostly directed towards Hungary.**

(iii) Absence of mutually satisfactory solutions

61. Article 4(3) AVSMD provides that the Member State concerned may adopt appropriate measures against the media service provider concerned where it assesses that the results achieved through the application of paragraph 2 of the same article are not satisfactory.
62. The Media Board shall therefore assess whether Hungary has applied the procedure set out in paragraph 2 of Article 4.

Contact by the notifying Member State

63. This procedure requires that the concerned Member State send a substantiated request to the Member State having jurisdiction to address the problems identified. Upon receiving this request, the Member State having jurisdiction should request the media service provider to comply with the stricter rules of general public interest at stake.
64. The Media Board observes that on 14 February 2023, following the entry into force of the new provisions on the protection of minors, NMHH submitted a detailed request to ALIA with respect to alleged violations of Hungarian legal provisions on human dignity and protection of minors by the broadcaster. NMHH stated that it had received 26 complaints with respect to these violations. On 28 March 2023, NMHH sent another letter to ALIA mentioning two other alleged violations of the same Hungarian legal provisions, by programs edited by the same broadcaster. Both letters requested ALIA to intervene with respect to these violations, on the basis of Article 4(2) of the AVSMD.
65. Between February 2023 and January 2025, NMHH sent five different letters on this topic to ALIA.
66. As provided for under Article 4(2), ALIA has regularly informed NMHH of its review of the alleged violations and of the decisions taken.
67. However, the last subparagraph of Article 4(2) requires specifically that within two months of receiving the request, the Member State having jurisdiction inform the concerned Member State and the Commission of the results obtained and the reasons where a solution could not be found. Either Member State may invite the Contact

Committee to examine the case at any time. To the Media Board's knowledge, such examination at the Contact Committee has not taken place.

68. ALIA has communicated its decisions to NMHH. The first decision concluded that the procedure under Article 4(2) of the AVMSD was not applicable, the second that the complaints transmitted were not admissible. The last two ALIA decisions analysed the content of the litigious audiovisual broadcasts under Luxembourgish law and rejected the need for sanctions.
69. The Media Board was not provided with evidence that the Commission was also informed of the results of the cooperation within two months of the receipt of NMHH's request to ALIA. However, NMHH states in its request to the Commission that it has notified the Commission of the progress of the cooperation phase by providing it with four of the five letters sent to ALIA (letters dated from 14 February 2023, 28 March 2023, 17 July 2023, and 8 January 2025).
70. It is to be noted that the first Luxembourgish answer to NMHH's request is dated from June 15 2023, more than two months after the reception of NMHH's request of February 14, 2023. It should be considered that the request should be deemed to have been received only when it is substantiated under Article 4(2). In that view, the Media Board considers that NMHH's request was substantiated only when ALIA received the additional information on 17 July 2023. Since ALIA then responded with a decision dated from 4 September 2023, the delay is respected.
71. CLT-UFA argues that the procedure under Article 4(2) has not been completed since *"NMHH's actions – consisting of three formal requests to intervene over a period of three years, without further engagement directed at resolving its concerns – cannot be described as a sincere attempt to cooperate with Luxembourg to find a mutually satisfactory solution"*.
72. Nevertheless, the evidence provided demonstrates that no less than five letters were sent by NMHH to ALIA between 14 February 2023 and 8 January 2025. Before this last letter, in July 2024, NMHH asked the ERGA chair to moderate a consultation with ALIA regarding the alleged failure of ALIA to comply with its obligations in the AVMSD and ERGA's Memorandum of Understanding. It is only when the subsequent decisions by ALIA did not satisfy NMHH that Hungary did proceed with a request under Article 4(4) of the AVMSD.
73. The Media Board is therefore satisfied that Hungary has, formally, respected the steps required by Article 4(2) of the AVMSD.

74. From a more substantive standpoint nonetheless, Article 4(2) provides that *“Upon receiving a substantiated request under the first subparagraph, the Member State having jurisdiction shall request the media service provider to comply with the rules of general public interest in question”*. However, ALIA did not order the media service provider to comply with the rules mentioned by NMHH in this request. The question of whether the cooperation between both Member States strived to address the *“problems identified”*, as provided for by Article 4(2), could therefore be questioned.
78. In its 14 February and 28 March 2023 letters, NMHH requests that ALIA *“take action and to deal with the problems that have arisen as a result of the violations of public-interest provisions identified by Hungary through the Media Council”*. This precise demand could appear to be in accordance with Article 4(2), which states that the requesting Member State should ask the Member State having jurisdiction to *“address any problems identified”*, and that this Member State should then request the media service provider concerned to *“comply”* with the general rules of public interest.
79. However, in both letters, NMHH requests that *“In order to remedy the problems identified, put an end to the current infringements and find a satisfactory solution to the serious infringements described above”*, ALIA *“imposes on the Media Service Provider a penalty that is proportionate to the infringements committed and that is sufficiently dissuasive to avoid future infringements”*. In its first letter, NMHH also recommends that ALIA *“take measures to render inaccessible the 24-hour streaming service of season 11 of “The Real World” on RTL+ (SVOD)”*.
80. In its 15 June 2023 decision, ALIA stated that NMHH’s request was inadmissible as it did not align with the objectives of Article 4(2) AVMSD which, according to ALIA, is not established with the view to penalising particular audiovisual service providers, but to account for the general public interests of each Member State.
81. As ALIA rejected the Hungarian request under Article 4(2), ALIA did not ask CLT-UFA to respect Hungarian rules, nor did it analyse the alleged violations under these provisions. Instead, ALIA’s Board of Directors reviewed the matters according to Luxembourgish provisions and found no violations.
82. It could be considered that the procedure has not been substantially completed by Hungary, because the media service provider was not put in a position to know and comply with the aforementioned rules.
83. Indeed, this last criterion could be considered material to Article 4(2) in that it is only when the media service provider has been asked to comply and has refused to, or the Member State having jurisdiction has been asked to request this of the media service

provider and has not done so, that appropriate measures – such as sanctions - can be considered by the notifying Member State under Article 4(3).

84. However, making the distinction between asking the media service provider to comply and requesting sanctions may appear too exacting, and a request for sanctions could reasonably be considered to amount to a request to “*address problems identified*”, in that a sanction’s purpose can be not only to punish past behaviour but also to obtain future compliance. The procedure should therefore be considered complete as long as it is not disputed that the notifying Member State has provided the second Member State with a substantiated request – as in, a request formally supported by mention of stricter rules or more detailed of general public interest and information on violations - and is not satisfied with the results of the cooperation.

Absence of satisfactory results

- 85. The procedure appears to have been formally completed, and in any event, it should be observed that Hungary considers that it has yielded unsatisfactory results, which fulfils the condition under Article 4(3) AVMSD.**

(iv) Evidence of establishment in order to circumvent stricter rules, in fields coordinated by the Directive

86. In accordance with Article 4 (3)(b) of the AVMSD, the Member State concerned may adopt appropriate measures against the media service provider concerned where it has adduced evidence showing that the media service provider in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules, which would be applicable to it if it were established in the Member State concerned. Such evidence shall allow for circumvention to be reasonably established, without the need to prove the media service provider's intention to circumvent those stricter rules.

87. It is incumbent on the NMHH to adduce evidence showing that CLT-UFA, as media service provider of the service RTL Kettő since 2015 and of the service RTL+, has established itself in Luxemburg to circumvent the stricter rules which would be applicable to it if it were established in Hungary. Such evidence shall allow for circumvention to be reasonably established. Hence, it is the view of the Media Board that NMHH should:

- Bring evidence that there are stricter rules to circumvent;
- Bring evidence of the establishment of CLT-UFA in Luxemburg in order to circumvent those rules.

88. The question of the existence of stricter rules has already been examined and the conclusion was that the Media Board considers that the NMHH has not demonstrated the existence of stricter rules of general interest in respect of human dignity, incitement to hatred or the protection of minors going beyond the standard established by the AVMSD.
89. Even if the Media Board was to consider that there were stricter rules to circumvent, it should be observed that CLT-UFA has always been established in Luxembourg since it was founded as Compagnie Luxembourgeoise de Radiodiffusion in 1931. Therefore, it cannot be considered that this establishment was made to circumvent any rules posterior to this date.
90. It is noted that both *Való Világ* and *Showder Klub* were previously broadcasted on the channel RTL Klub (later named RTL), under a Hungarian licence and operated by the media service provider Magyar RTL Televízió Zrt. (M-RTL). CLT-UFA states that *Való Világ* was broadcasted with a 12+ age rating on RTL Klub. From 2014, *Való Világ* was broadcasted on RTL II (the predecessor to RTL Kettő, launched under a Romanian licence in 2012,). At the end of 2014, editorial responsibility over RTL II was moved from the Romanian based provider to CLT-UFA in Luxembourg. It is stated that the decision was for business and operational reasons. Both *Való Világ* and *Showder Klub* were broadcast on RTL II from 2015, under a Luxembourgish licence. The channel RTL II was renamed RTL Kettő in 2022. *Való Világ* has been available on RTL+, a video-on-demand service, since 2022 (season 11 and 12) as a 24-hour livestream. CLT-UFA refers to the fact that M-RTL (the above mentioned Hungarian based media service provider) had previously provided a VOD service under the same name.
91. The NMHH states that *“the establishment test in the present case does not focus on the Media Service Provider’s choice of seat at the time of its establishment, but on the strategic decision by which the group changed the identity of its member providing media services directed towards Hungary. While previously the service was provided by M-RTL Zrt, a member of the group subject to Hungarian jurisdiction, through the RTL Klub television channel, during the period under review the Luxembourg member of the group broadcasts the media service in question to Hungary.”* As noted in the preceding paragraph, the decision to change editorial responsibility over RTL II from a Romanian to a Luxembourgish based provider was taken in 2014.
92. The Media Board cannot exclude that, in some cases, a decision taken inside a global and international group of media service providers to allocate the editorial responsibility of an existing and continuing audiovisual service to a different media service provider already established in another Member State, could be considered as a new

establishment meant to circumvent stricter rules in the sense of Art. 4(3)(b) of the AVMSD.

93. **However, in the current case, it is not necessary to investigate further this hypothesis as it has been concluded that no stricter rules in the fields coordinated by the Directive, susceptible of being circumvented have been established.**

(v) Proposed measures (objectively necessary, proportionate, non-discriminatory)

94. The last subparagraph of Article 4(3) AVMSD requires that the measures that NMHH intends to impose on CLT-UFA are objectively necessary, applied in a non-discriminatory manner and proportionate to the objectives which they pursue.
95. The measures envisaged by the NMHH are fines (in total HUF 1 050 000) and an obligation to publish a notice of violations on RTL Kettő. It is NMHH's view that CLT-UFA has severely violated values and principles protected by the AVMSD on several occasions.
96. NMHH refers to essential features of the fine sanction under Hungarian law (such as it having both a restorative and preventive function, the Authority's restricted room for manoeuvre with an upper limit of the fine set in the law and requirements for the Authority to consider principles of equal treatment, progressivity and proportionality) and argues that the sanction type is compatible with general Union law. NMHH has found that a fine is suitable to deter further infringements, to penalise the infringement sanctioned, and to restore the legal compliance of the legal person.
97. In NMHH's opinion, the fact that Luxembourg legislation also recognises and applies fines as a type of sanction applicable to infringements also supports the compatibility of the proposed measure with Union law in the context of the case.
98. NMHH concludes that the desired legitimate purpose is to protect human dignity and minors by enforcing the rules applicable to media service providers and media services. In NMHH's view, the financial penalty resulting from the fine is an effective deterrent to further infringements. The obligation to publish a notice is explicitly based on the specificity of the media service and, since the infringement took place in the communication space, the response communicated in the same space is suitable to achieve the regulatory purpose. NMHH argues that the measures are necessary and proportionate considering the gravity of the infringements and the obligations to which they relate, and that no less severe sanction may be applied. NMHH further argues that the fine as a legal consequence was introduced specifically to sanction severe

infringements that directly violate fundamental rights and may have particularly harmful social consequences. The fine is not deemed excessive. The public notice is considered as deterrent and proportionate to the gravity of the infringement without going beyond what is necessary. A warning as a sanction is not applicable under Hungarian law in this case, considering the provisions to which the infringements relate.

99. As regards non-discrimination, NMHH asserts that a measure is in breach of the principle of non-discrimination if the competent authority deviates from its own sanctions policy for a legal entity and applies a less severe or more severe measure than would be applied for other entities in a similar situation. NMHH argues that the discriminatory nature of the measures - or the lack thereof - can be demonstrated first and foremost by the foreseeable impact of the measure and by the consistency of the measure with the Authority's previous supervisory practice. In the NMHH's opinion, the envisaged measures would have no impact on the media market or media service providers beyond fulfilling the corrective and preventive functions of the sanction and the cumulative sum of the proposed fine cannot be considered significant either in the Authority's general practice or relative to the fines imposed on the media service provider in the past.
100. CLT-UFA has disputed that the intended measures are objectively necessary, applied in a non-discriminatory manner and proportionate to any legitimate objective which they might pursue. According to CLT-UFA, the intended measures have a punitive and retrospective character, and it is unclear how they are necessary to address the alleged circumvention of Hungarian law by CLT-UFA. Moreover, as the same facts have already been subject to investigation by ALIA, CLT-UFA argues that any further enforcement by NMHH would infringe the fundamental principle of *ne bis in idem*. It is CLT-UFA's view that imposing fines and an obligation to publish a notice clearly forms a restriction on CLT-UFA's freedom to provide services, and amounts to secondary control of the content of the relevant audiovisual media service and requiring CLT-UFA to broadcast a notice of infringement also forms an illegal interference with CLT-UFA's freedom of expression. According to CLT-UFA, the intended measures further form an illegal restriction of CLT-UFA's freedom of establishment, freedom to provide services and freedom to conduct a business, in that they essentially seek to punish it for providing its media services to Hungarian audiences without adhering to Hungarian media law.
- 101. Considering that preceding conditions have not been established, the Media Board cannot assert that measures proposed by NMHH are objectively necessary, non-discriminatory and proportionate in accordance with the requirements of Article 4(3) of the AVMSD.**

Part IV. Conclusion

102. In summary, the Media Board is of the opinion that NMHH has not established that all conditions for taking measures against CLT-UFA pursuant to Article 4 of the AVMSD are met.
103. The Media Board considers that, based on the information made available to it and summarised above, NMHH appears to have respected the procedural requirements set out in Article 4(2) of the AVMSD, at least formally. It should be observed that NMHH considers that the procedure has yielded unsatisfactory results, which fulfils the first condition under Article 4(3) of the AVMSD.
104. As regards the procedural conditions, NMHH has notified the Commission of its intention to adopt measures against CLT-UFA in accordance with Article 4(4)(a) of the AVMSD, including the grounds on which its assessment is based, and has stated that it has notified ALIA. The information provided indicates that CLT-UFA has been given an opportunity to express its views on the alleged circumvention and on the measures that NMHH intends to take in accordance with Article 4(4)(b) of the AVMSD, as evidenced by the letters referred to above in points 12 and 13 of Part I – Factual Summary.
105. Even if all procedural steps foreseen in Article 4 of the AVMSD were considered substantially completed by NMHH, the Media Board considers that NMHH has not demonstrated the existence of stricter Hungarian rules of general public interest.
106. As regards circumvention, it is undisputed that CLT-UFA is a Luxemburg-based media service provider and that the audiovisual media services RTL Kettő and RTL+ are Hungarian-language offerings. The Media Board considers that the services are wholly or mostly directed towards Hungary. However, as the Media Board considers that NMHH has not demonstrated the existence of stricter Hungarian rules of general public interest the question of circumvention has not been investigated further.
107. As regards the measures proposed by NMHH the Media Board cannot assert, on the basis of the elements provided, that the proposed measures are objectively necessary, non-discriminatory and proportionate to the objectives which they pursue in accordance with the requirements of Article 4(3) AVMSD.
108. Considering the above and the technical and factual issues of the case at hand, the Media Board is of the opinion that the request of Hungary to adopt anti-circumvention measures is not substantiated and does not satisfy the conditions set out in Article 4 of the AVMSD.

Annex I

Applicable legal provisions

I. EU law

Charter of Fundamental Rights in the EU

Article 11

Freedom of expression and information

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*
2. *The freedom and pluralism of the media shall be respected.*

Article 21

Non-discrimination

1. *Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.*
2. *Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.*

II. AVMSD

Article 6

1. *Without prejudice to the obligation of Member States to respect and protect human dignity, Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any:*
 - (a) *Incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter;*
 - (b) *Public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541.*
2. *The measures taken for the purposes of this Article shall be necessary and proportionate and shall respect the rights and principles set out in the Charter.*

Article 6a

1. *Member States shall take appropriate measures to ensure that -audiovisual media services provided by media service providers under their jurisdiction which may impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme. The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.*
2. *Personal data of minors collected or otherwise generated by media service providers pursuant to paragraph 1 shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.*
3. *Member States shall ensure that media service providers provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, media service providers shall use a system describing the potentially harmful nature of the content of an audiovisual media service. For the implementation of this paragraph, Member States shall encourage the use of co-regulation as provided for in Article 4a (1).*
4. *The Commission shall encourage media service providers to exchange best practices on co-regulatory codes of conduct. Member States and the Commission may foster self-regulation, for the purposes of this Article, through Union codes of conduct as referred to in Article 4a (2).*

III. Hungarian legislation:

Media Act

Article 14

- (1) *The media service provider shall respect human dignity in the media content that it publishes/broadcasts.*
- (2) *No wanton, gratuitous and offensive presentation of persons in humiliating, exposed or defenceless situations shall be allowed in the media content.*

Article 17

- (1) *'The media content must not be suitable for inciting hatred or violence against a nation, community, national, ethnic, linguistic and other minority or any majority, or any religious community or on a member of such communities, on the basis of belonging to that community. 'The Hungarian legislation also explicitly extends protection to 'any majority', which reflects a more detailed and broader approach than the wording of the AVMSD.*

(2) 'The media content must not be suitable for excluding a nation, community, national, ethnic, linguistic, or other minority or majority, or any religious community.'

Media Services Act

Section 9 (extracts)

'Category IV shall include programmes which may impair the physical, mental or moral development of persons under the age of sixteen, particularly because they refer to violence or sexuality, or are dominated by conflicts resolved by violence. These programmes shall be classified as 'Not recommended for audiences under sixteen years of age'.'

'Category V shall include programmes which may impair the physical, mental or moral development of minors, in particular as a result of having as their central element violence, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality or direct, naturalistic or gratuitous depiction of sexuality. These programmes shall be rated as not recommended for persons under eighteen years of age.'

'Category VI shall include programmes which may seriously impair the physical, mental or moral development of minors, particularly those that involve pornography or extreme and/or unnecessary scenes of violence.'

Section 10 (extracts)

Category IV (not recommended for persons under 16 years of age): It can only be broadcast between 9:00 p.m. and 5:00 a.m.

Category V (not recommended for persons under 18 years of age): It can only be broadcast between 10:00 p.m. and 5:00 a.m.

'a programme classified under Category VI may be broadcast only if the media service provider has in place appropriate technical measures to ensure that the media service contains the programme in an encrypted form and decryption may only be executed by the application of a code, which the media service provider or the broadcaster only makes available to subscribers over the age of eighteen, or if the media service provider uses another effective technical solution to prevent viewers or listeners under the age of eighteen from accessing the media service in question.'

'a preview may not be aired at a time when the programme it introduces or presents may not be aired otherwise or at a time when upon the proper rating of such preview it may not be aired.'

'In audiovisual media services, at the time the specific programme is asked a sign corresponding to the rating of the programme shall also be displayed in the form of a

pictogram in one of the corners of the screen so that it is clearly visible throughout the entire course of the programme. The pictogram shall include a number indicating the age group concerned by the age category.'

Annex II – relevant documents

06/02/2026: Commission Request for an Opinion of the European Board for Media Services under Article 4(4) point c) of the Audiovisual Media Services Directive (AVMSD)

06/01/2026: NMHH request for the opening of a decision-making procedure under Article 4(5) of the Audiovisual Media Services Directive (K/28179/2022)

- Annex 1: Description of the programmes
- Annex 2: Letter from the Authority to ALIA dated 14 February 2023
- Annex 3: Letter from the Authority to ALIA dated 28 March 2023
- Annex 4: Decisions of ALIA's Board of Directors dated 15 June 2023 (DEC004/2023-P002-027/2023, P029/2023)
- Annex 5: Letter from ALIA's Board of Directors to the Authority dated 15 June
- Annex 6: Letter from the Authority to ALIA dated 17 July 2023
- Annex 7: Decisions of ALIA's Board of Directors dated 4 September 2023 (DEC008/2023-P002-027/2023 and P029/2023)
- Annex 8: Letter from the Authority to ALIA dated 1 December 2023
- Annex 9: Letter from ALIA to the Authority dated 6 December 2023
- Annex 10: Decision No. DEC014/2024-A002/2023 of ALIA's Board of Directors dated 3 June 2024
- Annex 11: Decision No. DEC024/2024-A001/2023 of ALIA's Board of Directors dated 11 November 2024
- Annex 12: Letter from the Authority to ALIA dated 8 January 2025
- Annex 13: Decision of the Board of Directors of ALIA dated 24 February 2025
- Annex 14: Letter from the Authority to the Media Service Provider dated 7 May 2025

23/02/2026: NMHH response letter to the request dated 16 February 2026 (K/28179/2022)

- Annex 1: Response letter to the European Commission's Request for Complementing the Notification ("Request") under Article 4(5) of the Audiovisual Media Services Directive
- Annex 2: Official Certificate of Registration (Company Register Extract) of CLT-UFA S.A. from the Luxembourg Business Registers.
- Annex 3: Official extract from the MAVISE database of the European Audiovisual Observatory (to verify the registration data of the services).
- Annex 4: Response letter to the Media Service Provider's Observations in the Procedure under Article 4 of the AVMS Directive

13/02/2026: CLT-UFA / NMHH Observations re. NMHH's request under Art. 4 AVMSD

27/02/2026: CLT-UFA / NMHH, additional observations

25/02/2026: ALIA's comments in the context of the anti-circumvention procedure initiated by the NMHH under Article 4 of the AVMSD