



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 301

Communication from the Commission - TRIS/(2025) 1549

Directive (EU) 2015/1535

Notification: 2025/0235/IT

Request for supplementary information from the Commission.

Request for supplementary information - Demande d'informations complémentaires - Žádost o doplňující informace - Ersuchen um ergänzende Informationen - Искане за допълнителна информация - Žádost o dodatečné informace - Anmodning om supplerende oplysninger - Αίτηση συμπληρωματικών πληροφοριών - Solicitud de información complementaria - Lisateabe edastamise palve - Lisätietopyyntö - Zahtjev za dodatne informacije - Kiegészítő információ kérése - Domanda di informazioni complementari - Prašymas pateikti papildomos informacijos - Papildu informācijas pieprasījums - Talba għal tagħrif addizzjonali - Verzoek om aanvullende inlichtingen - Prošba o uzupeňnienie informacji - Pedido de informações complementares - Solicitare de informații suplimentare - Žiadosť o ďalšie informácie - Zahteva za dodatne informacije - Begäran om kompletterande upplysningar - Iarraidh ar fhaisnéis fhorlíontach

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1. MSG 301 IND 2025 0235 IT EN 12-08-2025 13-06-2025 COM INFOSUP COM 12-08-2025

2. Commission

3. DG GROW/E/3 - N105 04/63

4. 2025/0235/IT - SERV - INFORMATION SOCIETY SERVICES

5.

6. Within the framework of the notification procedure under Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, the Italian authorities notified to the Commission on 9 May 2025 the “Draft law on the protection of minors in the digital dimension” (hereinafter, the “notified draft”).

In order to allow the Commission services to complete their analysis under the relevant provisions of EU law, the Italian authorities are kindly invited to reply to the following request for supplementary information:

The Commission services understand that Article 2 of the Italian draft law No. 1136 lays down the minimum age of 15 for access social media and video sharing platforms in Italy. It further lays down an obligation to verify this age, also by taking into account EuID.

Article 3 (1) of the draft law requires services to adopt the conditions of the existing contracts concluded by children under the age of 15. Article 3(2) further specifies that failure to adopt these contracts will result in them being null and void. This paragraph further states that null and void contracts cannot constitute an appropriate legal basis for processing of personal data in line with Article 6(1)b GDPR.

Finally, Article 3(3) mandates the data protection authority to impose penalties as provided for in the GDPR. In addition, Article 3(4) lays down that the communications regulatory authority is responsible for monitoring the application of Article 2.



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In light of this, the Italian authorities are invited to clarify what exactly is the infringements of this draft law that the data protection authority shall impose penalties on. In particular whether it is the infringement of Article 3(1) or 3(2), or both, or whether it is the infringement for processing personal data without a lawful basis, in this case Article 6(1)b GDPR.

To the extent the data protection authority would be only responsible for penalising the infringements concerning lawfulness of the processing, this constitute an infringement of the GDPR and the rules governing such infringements are directly laid down in the GDPR.

Article 55 and 56 GDPR lays down the competence of the data protection authorities. According to these articles, as a general rule, the data protection authority in which the controller is established is responsible for examining the infringements of that controllers. This rule does not apply only in limited cases, such as when the processing only relates to an establishment in its member state or substantially affects data subjects only in its member state (Article 56(2) GDPR).

Processing by social media platforms or video sharing platforms is unlikely limited to processing by an establishment in one member state or substantially affect data subject only in one member state. Therefore, it is not clear how a requirement for the Italian data protection authority to impose penalty for processing of personal data without a legal basis on majority of the platforms in question would be in line with the competence of data protection authorities pursuant Article 55 and 56 GDPR.

In addition, Article 3(3) lays down an obligation to impose a penalty. Therefore, we would like to also seek a clarification if the draft law refers to Article 83 (administrative fines) or Article 84 (penalties) of the GDPR.

We would like to recall that Article 83 of the GDPR does not mandate the data protection authority to impose for an infringement of the GDPR. Instead, it is left for the discretion of the data protection authority taking into account all elements of the case. On the other hand, Article 84 of the GDPR provides that Member States shall lay down rules on other penalties applicable to the infringements of the GDPR and must be notified to the Commission.

The Italian authorities are kindly invited to reply by 27 June 2025.

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