

THE KINGDOM OF BELGIUM

FEDERAL PUBLIC SERVICE FOR
JUSTICE
Royal Decree implementing Article 433c/2
of the Criminal Code

Philippe, King of the Belgians,

To all those present and to come, Greetings.

Having regard to Article 433c/2 of the Criminal Code, inserted by the Act of 21 March 2022 amending the Criminal Code with regard to sexual criminal law;

Having regard to the opinion of the Finance Inspectorate issued on [date];

Having regard to the agreement of the Secretary of State for the Budget, given on [date];

Having regard to the communication to the European Commission on [date], pursuant to Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

Having regard to the opinion of the Council of State, given on [date], pursuant to Article 84(1)(1)(2) of the Acts on the Council of State, consolidated on 12 January 1973;

Having regard to the obligations contained in Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (Digital Services Regulation);

Having regard to the obligations contained in Regulation (EU) 2016/679 of the European

Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), and in particular the obligation to ensure appropriate data security, and the obligation to provide the data subject with clear and comprehensible information on how his or her data will be processed.

On the proposal of Our Minister for Justice,

We have decreed and hereby decree:

CHAPTER 1. Definitions

Article 1. For the purpose of this decree:

- (1) Provider: an undertaking which, at the request of an advertiser, stores and disseminates advertising to the public on an (online) internet platform, or any other medium or part of a medium (online or offline), aimed specifically at prostitution;
- (2) Any other medium or part of a medium intended specifically for prostitution: the section in the written press or in an information society service dedicated to advertising prostitution;
- (3) Advertiser: the person who requests from a provider the dissemination of an advertisement for prostitution for sexual services or for a place dedicated to the provision of sexual services by adults;
- (4) Visitor: the person who consults the advertisements for prostitution disseminated by a provider.

CHAPTER II. – Scope

Article 2. This Decree concerns free or paid advertising for prostitution, as defined in article 433c/2 of the Criminal Code.

This Decree applies to providers established in Belgium or to providers who broadcast prostitution advertising to the Belgian public, irrespective of the location of sexual services or the place dedicated to the provision of such services.

CHAPTER III. – Common conditions to be met by providers

Article 3. Prior to the placement of an advertisement, the provider shall ascertain the identity and majority of the advertiser and, where applicable, the provider of the sexual service, by means of the following documents:

- (1) an identity document, and
- (2) a photograph of the advertiser's face and, where applicable, that of the sexual service provider, taken on the day of the request for placement of the advertisement and allowing them to be physically recognised.

The provider shall verify the telephone number and, if available, the email address provided by the advertiser.

In case of doubt as to the veracity or accuracy of the person's identification or as to the age of the person, the provider shall ask for more information. If this information is not provided, the provider shall refuse the placement of the advertisement.

Without prejudice to Articles 7, 10 and 11 such data may not be used for purposes other than identity verification and to check that the advertiser is of age.

Once the checks have been completed, the photograph provided for in point 2 shall not be kept. It must be destroyed or erased.

Article 4. The provider shall make available to advertisers useful information to help them

ensure their safety at the time of placing an ad and during contact with visitors.

In addition, it provides advertisers and visitors with useful information to protect themselves against sexually transmitted infections.

The provider shall make available to advertisers useful information on the safe development and exercise of the business and on the possibilities for reorientation.

The provider shall make available to advertisers the contact data of recognised specialised centres, subsidised aid organisations, and professional organisations for sex workers.

In order to facilitate the application of this provision, the Federal Public Service for Justice shall make available a standardised information page on its website.

The provider offers the possibility for subsidised support organisations and sex workers' professional organisations to create a free account on the platform allowing them to communicate with advertisers.

Article 5. The provider shall take appropriate measures to protect all advertisers from the abuse of prostitution and human trafficking, in particular by visibly mentioning the contact point for victims of human trafficking, www.stoptraitehumaine.be, and the single telephone number 078 05 58 00 of the Belgian helpline for victims of human trafficking.

Article 6. The provider shall raise awareness among those responsible for managing advertisements on the phenomenon of abuse of prostitution and human trafficking and of the assistance offered by recognised specialised centres for victims of human trafficking.

Article 7. In the event of suspicion of abuse of prostitution or human trafficking, the provider shall report any cases to the police or judicial authorities without delay.

CHAPTER IV. – Specific conditions to be met by online providers

Article 8. The provider shall warn visitors that access to ads for prostitution is reserved for visitors of age.

The provider shall provide visitors with a clear means to enable them to promptly report suspicions of abuse of prostitution or human trafficking.

Article 9. The provider shall provide advertisers with a system where they can report customers that exhibit violent behaviour and share negative experiences with other advertisers.

Article 10. The provider has a contact point in Belgium that can be easily reached by the police or judicial authorities during working days.

The provider shall respond without undue delay and free of charge to requests for information made by the police in the course of its judicial and administrative tasks or by the judicial authorities in the context of investigations or prosecutions in accordance with the Code of Criminal Investigation and special laws, or by the intelligence services in the context of their legal duties.

In case of emergency, the provider shall respond within 24 hours.

Article 11. For the purposes of investigation and prosecution, the provider shall keep the following data for a period of three years after the end of the contract between the provider and the advertiser:

- (1) a copy of the identity document;
- (2) Account creation data (date – if available e-mail address – telephone number – IP address);

(3) Data relating to the creation of the advertisement;

(4) Payment details if payments have been made;

(5) Data relating to changes in the ad/account (when the ad went up – when it was deleted – which e-mail addresses were used for this – which IP address was used for this);

Article 12. The Minister responsible for Justice shall be responsible for the implementation of this Decree.

Issued

By the King:

The Minister for Justice,

P. VAN TIGCHELT