

## Regulation of foreign television services in France

### 1. What is the regime applicable to television services falling within the jurisdiction of other Member States of the European Union or the European Economic Area?

The framework of the Audiovisual Media Services Directive 2010/13/EU of 10 March 2010 (AVMS Directive), as transposed in Law No. 86-1067 of 30 September 1986 on freedom of communication (1986 Law), applies.

Television services falling within the jurisdiction of other Member States of the European Union (EU) or the European Economic Area (EEA) may be broadcast freely in France on networks not using frequencies allocated by the Conseil supérieur de l'audiovisuel (CSA) - i.e. by satellite or by wire - without prior formality (Article 43-7 of the 1986 Law). These services must comply with the applicable law of their competent State and can be freely received in other EU and EEA Member States.

However, by exception, in case of manifest, serious and repeated breaches<sup>1</sup> from any of these television services, the CSA may temporarily suspend its retransmission (article 43-8 of the 1986 Law and Decree No. 2010-1593 of 17 December 2010).

The CSA may also act in the event of the establishment, in another EU Member State or party to the EEA Agreement, of a television service entirely or mainly intended for the French public with the main objective of circumventing French rules (Article 43-10 of the 1986 Law and Decree No. 2010-1593 of 17 December 2010).

### 2. What is the regime applicable to television services established in a State party to the European Convention on Transfrontier Television (exclusive of the Member States of the European Union and the European Economic Area)?

As France is a party to the European Convention on Transfrontier Television (ECTT) of the Council of Europe<sup>2</sup>, this framework applies in its relations with the other States party to the ECTT which are not Member States of the European Union or States party to the Agreement on the European Economic Area.

Parties to this instrument “*shall ensure freedom of expression and information in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms and they shall guarantee freedom of reception and shall not restrict the retransmission on their territories*” of television services which comply with the terms of the ECTT (Article 4 of the ECTT).

This provision is reflected in Article 43-7 of the 1986 Law, which provides in particular that television services under the jurisdiction of another State party to the ECTT may be

---

<sup>1</sup> These breaches concern the prohibition of incitement to hatred and violence and the protection of minors.

<sup>2</sup> European Convention on Transfrontier Television of 5 May 1989 (ETS No. 132) and its amending Protocol (ETS No. 171).

broadcast in France on networks not using frequencies allocated by the Conseil supérieur de l'audiovisuel (CSA) - i.e. by satellite or by wire - without prior formality.

Each State Party to the ECTT shall ensure that television services under its jurisdiction, and subject to transfrontier retransmission, comply with the provisions of the ECTT (Article 5 of the ECTT).

If the CSA finds a violation of the ECTT by a service of another State Party to this Convention broadcast in France, it may approach the other Party to endeavour to resolve the difficulties through co-operation, conciliation or arbitration as provided for in the Convention. If the violation persists, a provisional suspension of the service may be envisaged. Article 43-8 of the 1986 Law thus provides that the CSA may provisionally suspend the retransmission of television services falling within the jurisdiction of another State party to the ECTT under the conditions provided for in this Convention. Decree No. 2010-1593 of 17 December 2010 specifies the conditions of application of Article 43-8.

### **3. What is the regime applicable to non-European (non EU, non EEA and non ECTT) television services?**

Article 2.4 of Directive 2010/13/EU "Audiovisual Media Services" of 10 March 2010 (AVMS Directive) sets out the technical criteria allowing the attachment of non EU audiovisual media service providers, which are not established in the European Union (EU), to the jurisdiction of an EU Member State (MS).

Such a service is deemed to fall within the competence of a MS:

- (a) if it uses a satellite uplink situated in that MS;
- (b) if, although it does not use a satellite uplink situated in that MS, it uses satellite capacity appertaining to that MS.

These criteria have been transposed into Article 43-4<sup>3</sup> of the 1986 Law.

Each MS shall ensure that all services under its jurisdiction comply with the rules of the system of law applicable to services intended for the public in that MS (Article 2.1 of the Directive).

France thus has jurisdiction over many non-European satellite television services received in Europe because their uplink is located in France or because they are broadcast via satellite capacity belonging to the French operator Eutelsat.

---

<sup>3</sup>« Les éditeurs de services de télévision ou de médias audiovisuels à la demande auxquels n'est applicable aucun des critères définis à l'article 43-3 relèvent de la compétence de la France s'ils satisfont à l'une des conditions suivantes :

1° S'ils utilisent une liaison montante vers un satellite à partir d'une station située en France ;

2° Si, n'utilisant pas une liaison montante vers un satellite à partir d'une station située dans un autre Etat membre de la Communauté européenne ou dans un autre Etat partie à l'accord sur l'Espace économique européen, ils utilisent une capacité satellitaire relevant de la France ».

These services may be broadcast by networks not using frequencies assigned by the Conseil Supérieur de l'Audiovisuel - i.e. by satellite or by wire - without prior formalities. Indeed, Law No. 2006-64 of 23 January 2006 on the fight against terrorism and laying down various provisions relating to security and border controls has put an end to the CSA "convention" (licensing) regime that previously prevailed.

They are subject to the obligations of the 1986 Law and to the control of the CSA (III of Article 33-1 and Article 43-2).

It is up to satellite operators whose activity has the effect of bringing these services under French jurisdiction and to distributors to inform providers of the services of the regime applicable to them.

In practice, in the a posteriori control that it exercises on its own initiative or if it receives a complaint, the CSA ensures in particular that obligations are respected in the areas of incitement to hatred and violence, protection of minors and respect for human dignity.

In case of breach of obligations, the CSA may initiate proceedings with service providers or satellite operators in order to put an end to the breach<sup>4</sup>: warning letter, formal notice to inform the channel of the regime applicable to it, formal notice to cease broadcasting problematic content, formal notice to cease broadcasting the television service, referral to the Council of State to order in summary proceedings the cessation of the broadcasting of the television service by an operator.

**Contact:**

**Directorate for European and International Affairs**

**+33 (0)1 40 58 36 28**

**[info.international@csa.fr](mailto:info.international@csa.fr)**

#### **4. The case of British television services and the consequences of Brexit**

Pursuant to Article 43-7 of the 1986 Law, television services falling within the jurisdiction of another European Union Member State or party to the Agreement on the European Economic Area, as well as television services falling within the jurisdiction of another State party to the European Convention on Transfrontier Television (ECTT), may be broadcast in France by satellite or by wire without prior formality.

As the United Kingdom is, like France, a Party to the ECTT, television services established there, within the meaning of Article 5 of that Convention, continue to benefit from this option, in accordance with the provisions of the ECTT, Article 4 of which provides that the Parties "*shall guarantee freedom of reception and shall not restrict the retransmission on their territories of programme services which comply with the terms of this Convention*". Reciprocally, the United Kingdom ensures freedom of reception on its territory of television services falling within the jurisdiction of other States Parties to the ECTT, including European Union member States Parties to the ECTT, such as France. Television services from States not

---

<sup>4</sup> Articles 42, 42-1 and 42-10 of the 1986 Law.

party to the ECTT must fulfil the formalities required by Ofcom for reception in the United Kingdom<sup>5</sup>.

Some Member States of the European Union and the European Economic Area have not signed or ratified the ECTT.

In these States, a television service established in the United Kingdom is not able to benefit from the freedom of reception clause provided for in Article 4 of the ECTT, and it is solely on the basis of the AVMS Directive and the national legislation in force in each of these States that the legal situation of that service is examined.

Each of these States is thus entitled to consider that this service established in the United Kingdom, a third State, is deemed to fall within the competence of an EU Member State pursuant to Article 2-4 of the AVMS Directive (provisions transposed in France in Article 43-4 of the 1986 Law), if it uses an uplink to a satellite located in a Member State or, failing that, if it uses satellite capacity belonging to a Member State.

Consequently, this television service may be brought under French jurisdiction by virtue of the location of its satellite uplink in France or its broadcasting in Europe via satellite capacity of the French operator Eutelsat.

The French legal regime applicable to non-European television services under French jurisdiction provides that they may be broadcast by satellite and by wire without prior formalities (Article 33-1 III). They must, however, comply with the 1986 Law and are subject to supervision by the Conseil supérieur de l'audiovisuel (Articles 43-2 and 33-1, III) (see point 2 above).

**Contact :**

***Directorate for European and International Affairs***

**+33 (0)1 40 58 36 28**

**[info.international@csa.fr](mailto:info.international@csa.fr)**

---

<sup>5</sup> <https://www.gov.uk/guidance/broadcasting-and-video-on-demand-from-1-january-2021>  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/190342/faq-television-on-demand-services-after-brexid.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/190342/faq-television-on-demand-services-after-brexid.pdf)