



C/2024/3738

24.6.2024

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 7 March 2024 –
WebGroup Czech Republic, a.s., NKL Associates s. r. o. v Ministre de la Culture, Premier ministre**

(Case C-188/24, WebGroup Czech Republic and NKL Associates)

(C/2024/3738)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicants: WebGroup Czech Republic, a.s., NKL Associates s. r. o.

Defendants: Ministre de la Culture, Premier ministre

Other parties to the proceedings: Osez le féminisme !, Le mouvement du Nid, Les effronté-E-S

Questions referred

1. In the first place, must provisions falling within the scope of criminal law, in particular general and abstract provisions which refer to certain conduct as constituting a criminal offence liable to prosecution, be regarded as falling within the scope of the 'coordinated field' of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 ⁽¹⁾ where they are capable of applying both to the conduct of an information society service provider and to that of any other natural or legal person? Or must it be considered, since the sole purpose of the directive is to harmonise certain legal aspects of such services without harmonising the field of criminal law as such and since it lays down only requirements applicable to services, that such criminal provisions cannot be regarded as requirements applicable to the taking up and pursuit of the activity of the information society services falling within the 'coordinated field' of that directive? In particular, do the criminal provisions intended to ensure the protection of minors fall within the scope of that 'coordinated field'?
2. Must the requirement that publishers of online communication services are to put in place measures to prevent minors from accessing pornographic content which they broadcast be regarded as falling within the scope of the 'coordinated field' of Directive 2000/31/EC, which harmonises only certain legal aspects of the services concerned, whereas, if that obligation concerns the pursuit of the activity of an information society service, in so far as it relates to the behaviour of the service provider and the quality or the content of the service, it does not concern, however, the establishment of service providers, commercial communications, electronic contracts, the rules on the liability of intermediaries, codes of conduct, out-of-court dispute settlements, court actions or cooperation between Member States and, therefore, does not relate to any of the subjects governed by the harmonising provisions of Chapter II of that directive?
3. If the answer to the preceding questions is in the affirmative, how should the requirements of Directive 2000/31/EC be reconciled with those arising from the protection of human rights and fundamental freedoms in the European Union, in particular the protection of human dignity and the best interests of the child, guaranteed by Articles 1 and 24 of the Charter of Fundamental Rights of the European Union and by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, where the mere adoption of individual measures taken in respect of a

⁽¹⁾ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1).

given service does not appear to be such as to ensure effective protection of those rights? Is there a general principle of EU law that allows Member States to take, in particular in case of an emergency, measures – including when they are general and abstract with regard to a category of service providers – that are required to protect minors against violations of their dignity and integrity, by way of derogation, where necessary, in respect of providers governed by Directive 2000/31/EC, from the principle of regulation of those providers by their State of origin laid down in that directive?
