

Parliamentary Bill on Regulations for the Protection of Children in Film Viewing and use of Videogames

CHAPTER I

Article 1 (Film Classification)

1. Public viewing and advertising of films, as defined in Article 2, paragraph 1 of Legislative Decree 22 January 2004, no. 28 and subsequent modifications, is subject to the classification of the same, in accordance with the regulations below. The same regulations shall also apply to films broadcast on television and films broadcast on the Internet until new regulations come into force with the adoption of the Self Regulatory Media and Children Code of Conduct, in accordance with the procedures in Article 6 of the Decree of the President of the Republic 14 May 2007, no. 72.

Article 2 (Committee of Film Classification for the Protection of Children)

1. A committee of film classification for the protection of children, hereinafter the "Committee" is to be set up within the Ministry for Cultural Affairs, hereinafter the "Ministry", to classify cinematographic works in accordance with Article 3, paragraph 9.

2. The Committee, composed of three sections, shall have 27 members appointed by a decree of the Minister of Cultural Affairs, hereinafter the "Minister", respecting the principle of gender equality. The three members chairing the sections shall be designated by the Parliamentary Childhood Committee, another six members by the Minister, three by the Communications Minister, three by the Family Policy Minister, three by the Social Solidarity Minister, three by the Sports and Youth Policy Minister and six by major parents' associations; members shall all be noted for their professionalism, their efforts to assert the dignity of the person and especially their work for the protection of children. In all events, at least one member per section shall be a professor of psychology specialising in the problems of growing children.

3. The Committee shall be in office for three years. Organisational and operational aspects are governed by the regulations in Article 6, paragraph 1.

4. The Committee shall be responsible, amongst other things, for responding to and giving appropriate publicity to received reports, with the aim of promoting awareness and ways to safeguard children's access to cinematographic works.

Article 3 (Classification systems)

1. Production and distribution companies, and film rights' holders shall be responsible for rating films, setting up specific bodies for the purpose if need be. The rating system shall:

- a) Protect children's rights and psychophysical and moral integrity;
- b) Promote awareness and ways to safeguard children's access to cinematographic works;
- c) Help families and children enjoy films in a correct and proper fashion;
- d) Provide a simple and clear system of identifying film content;

2. For the purposes of film classification, it is important to bear in mind the risk of emulation and the age of the viewers, and assess any elements that may harm the dignity of the person or that may have an adverse psychological effect on children, such as: language; violence; pornography; use of psychotropic drugs; criminal behaviour; discrimination based on race, religion, political opinions, age, sex, sexual tendencies, nationality, disabilities; mistreatment of animals. Assessment parameters for the purposes in this paragraph shall be subject to periodic review and communicated by Ministerial Decree issued in agreement with the Family Policy Minister.

3. The films in Article 1 shall be rated:

- a) Suitable for all;
- b) Restricted to 10 year-olds or over;
- c) Restricted to 14 year-olds or over;
- d) Restricted to 18 year-olds or over.

4. Strictly within thirty days of the film being distributed, the companies in paragraph 1 shall notify and the Ministry of the film's rating, classified in accordance with the parameters in paragraph 2, motivating their decision and depositing a copy of the work in accordance with the procedures in Article 6, paragraph 1 of the Decree. Copies distributed thereafter shall be identical to those deposited. The Ministry shall acknowledge receipt of the communication. Film classification activities are not funded by the state in any way. The Committee shall be immediately informed of the communication by the Ministry.

5. The companies in paragraph 1 shall also provide a clear and unequivocal indication of the film's rating in all advertising, distributive channels and commercial copies. Managers of cinemas where the film is to be shown and those responsible for the distribution and commercial distribution of the film, by whatever manner or means, shall inform the public of the film's rating in a way that is clearly visible in all presentations, advertising or packaging.

6. Cinema managers and commercial distributors shall ensure that children are not allowed to view, buy or hire the film, in contravention of the regulations in this law.

7. Films classified as suitable for children of a certain age range cannot be preceded, followed or interrupted by advertisements for works classified as unsuitable for children of the same age range.

8. Films whose ratings have not been communicated as under paragraph 4 cannot be broadcast, distributed, or advertised in any manner.

9. Except in cases when a film has been classified as unsuitable for children under 18, the companies in paragraph 1 may ask the Ministry to refer the film to the Committee to validate the classification. The application is to be accompanied by a receipt of payment of a contribution to pay for Committee running costs, in accordance with the procedures outlined in Article 6, paragraph 1 of the Decree. The amount of the contribution for the Committee's running costs are to be set by Ministerial Decree, in agreement with the Economics and Finance Minister. These contributions form part of the state revenue and are reassigned in the Ministry's budget. For a transitory period of two years as of the publication of the Decree in Article 6, paragraph 1, the companies in paragraph 1 that have classified the films in accordance with clauses b) and c) of paragraph 3 shall apply to the Ministry for Committee validation of the classification.

10. The Committee, having verified the classification, having viewed the film and having heard the applicant and the film director, shall validate the rating or reclassify the work in accordance with the criteria in paragraph 3. Validation excludes the application of the penalties in Article 4, paragraph 3, provided that the distributed film is identical to the one that has been validated. Film rating validation procedures are established by decree as under Article 6.

11. Within the next working day after validation, the Ministry shall issue a classification certificate, or communicate the reclassification of the work to the applicant. Within three days of receiving notification, the applicant may apply for the reclassification to be reviewed, which, within three days of the application being received, shall be jointly carried out by the Committee sections that had not taken part in the verification of the film's rating. Within the same period of three days from the reclassification notification, the Ministry may arrange for and inform the applicant of the review procedure.

12. A film that has been already been classified or whose rating has been validated cannot be issued with a new rating fewer than three years after the prior rating or the validation certificate or the reclassification notification, as under paragraph 11.

Article 4 (Supervision and penalties)

1. The Ministry, as part of its duties or on receiving reports sent by children's protection associations established no fewer than five years previously, may initiate procedures to ascertain breaches of the obligations in paragraphs 1, 4, 5 and 6 of Article 3 regarding film classification, public distribution and commercial distribution in any form whatsoever, notifying the interested parties and setting a deadline of no more than fifteen days to present a justification. In cases of breaches of film classification regulations, the obligatory opinion of the Committee is admitted.

2. In cases of ascertained breaches of regulations, the Ministry shall apply the penalties in paragraphs 3 and 4 and shall ban the film from being publicly distributed, until the provisions in Article 3 have been complied with.

3. Without prejudice to the application of penalties envisaged for the illegal distribution of cinematographic works, breaches of the regulations in Article 3, paragraphs 1 and 4, shall be punished with a fine of between 15,000 and 100,000 euros.

4. Without prejudice to the application of penal sanctions, cinema managers and business managers that fail to respect the provisions in Article 3, paragraphs 5 and 6, shall be punished with a fine of between 1000 and 5000 euros.

5. In particularly serious cases or repeated violations within a twelve month period, the fines for breaches of the regulations in paragraph 3 are doubled, and the cinema or business shall be closed for a period of no fewer than fifteen and no more than sixty days for breaches of the regulations in paragraph 4.

Article 5 (Regulations and Penalties)

1. Paragraph 2 of Article 668 of the criminal code is replaced by the following: "The same penalties shall apply to anyone distributing unclassified cinematographic works in contravention of current legislation".

2. Public security officers shall, when reporting the offence in Article 668 of the criminal code to the judicial authorities, seize any unclassified works that contravene current legislation. The works shall be released from seizure upon compliance with the provisions in Article 3.

3. The offences in articles 528 and 668 of the criminal code committed in the manner described in this law shall be under the jurisdiction of the court of the area where the work was first publicly distributed.

Article 6 (Implementation)

1. A Ministerial Decree, to be issued within sixty days of this law coming into force, shall set regulations for the organisation and operation of the Committee, and the procedures for communicating ratings and depositing copies as under Article 3, paragraph 4, and shall establish validation procedures as under Article 3, paragraphs 9 and 10.

2. The provisions in articles 2, 3, 4 and 5 shall come into force on the publication date of the Decree as under paragraph 1.

3. Prior to the publication of the Decree as under paragraph 1, the committees in articles 2 and 3 of Law 21 April 1962, no. 161, will continue to conduct activities in accordance with the provisions in the said law and relative regulations.

CHAPTER II

Article 7 (Video game classification system)

1. Producers, importers and distributors, and associations thereof, shall classify video games, off-line or on-line, on the basis of the recognised European self-regulatory system. This system, which classifies videogames according to content and children's age ranges, aims to safeguard the rights and psychophysical and moral integrity of children, promoting awareness and ways to safeguard children's access to videogames.

2. Videogames are classified on the basis of content and psychic and emotional suitability for the age of the players. Classification criteria shall take into account themes, language, degree of violence, sexual or pornographic images, use of psychotropic substances, and any discriminatory messages concerning race, religion, sex, sexual tendencies, nationality, disability, or any other element harmful to the dignity of the person.

3. Producers, importers and distributors shall clearly and unequivocally indicate, in accordance with the provisions in this article, the rating given to the videogame in whatever manner or means the copies are advertised, distributed or marketed. Those responsible for the distribution and commercial distribution of the game, by whatever manner or means, shall notify the public of the classification in any presentation, advertisement or product packaging.

4. Strictly within no more than 30 days prior to distribution, the persons in paragraph 3 are to communicate the classification given to the videogame to the Media and Children Committee of the Ministry of Communications, depositing at the same time a copy of the work.

5. As part of its duties or on receiving a report, the Media and Children Committee shall verify, within 30 days of the copy being deposited, that the work has been classified in accordance with the system in paragraph 1, and in cases of discrepancies, having heard the persons in paragraph 3, shall advise the Communications Guarantee Authority to request a reclassification of the product from the competent European body. Within 30 days of receiving the aforementioned opinion of the Committee, the authority shall also communicate his or her resolve to the interested party. The Media and Children Committee shall immediately communicate the outcome of the reclassification procedure to the persons in paragraph 3. Whilst awaiting the conclusion of the national phase of the procedure, the videogame subject to reclassification may not be publicly distributed, commercially distributed or advertised in any manner of means.
6. Distributors and retailers shall take the necessary measures to prevent children from buying or hiring the games, in contravention of this law.
7. Unclassified videogames cannot be publicly distributed, commercially distributed or advertised in any manner or means.
8. The classification activities in paragraph 1 are not funded in any way by the state.
9. Without prejudice to the application of penalties envisaged for illegal distribution, any producer or importer contravening the provisions in paragraph 1 and 3 shall be punished with a fine of between 15,000 and 100,000 euros.
10. Without prejudice to the application of penal sanctions, any distributor or retailer that fails to respect the provisions in paragraphs 6 and 7 shall be punished with a fine of between 1000 and 5000 euros.
11. The Communications Guarantee Authority is responsible for ascertaining any violations and issuing penalties as under paragraphs 9 and 10.

Article 8 **(Interministerial Committee for the Protection of Children on the Internet)**

1. The Presidency of the Council of Ministers is to set up an interministerial committee for the protection of children on the Internet, at no extra cost to the state, to develop inter-institutional action to ensure complete and proper implementation of current legislation in this field and harmonise national and European legislation. In particular, the committee shall: a) offer schools and families economic incentives, the total amount for which shall be determined annually in a directive as under Law 18 December 1997 no. 440, to install parental control systems on their computers for the protection of children; b) promote and draft legislative and administrative regulations, including the provision of penalties, to protect children using the Internet; c) promote and

draft protocols of understanding with major content providers, hosting providers, search engines and portals to identify measures that can best protect children, to create a database for the classification of sites and videogames in accordance with current self-regulatory codes of conduct, and to set up an easily understood labelling system for Internet site content; d) devise and implement communication campaigns on these issues with the active involvement of major content providers, hosting providers, search engines and Internet portals;

2. The committee shall have 22 members nominated by Decree of the President of the Council of Ministers, respecting the principle of gender equality. Two members are to be designated by the Education Minister, two by the Youth Policy Minister, two by the Family Minister, two by the Social Security Minister, two by the Communications Minister, two by the Interior Minister, and two by the Culture Minister. One member is to be designated by the Communications Guarantee Authority and one by the Personal Data Protection Commissioner. The forum of major youth and student organisations, and the forum of major parents' associations, registered at the Education Ministry, shall designate one member each. Another four members shall be qualified experts specialising in the problems of growing children, and information technology law.

3. The committee shall be in office for three years. Organisational and operational aspects shall be established in a subsequent decree of the President of the Council of Ministers.

4. Participation in committee sessions does not include any payment of attendance fees or expenses.

5. The incentives in paragraph 1, clause a) are to be funded through the Fund in Article 4 of Law 18 December 1997, no. 440.

CHAPTER III

Article 9

(Rescissions, modifications and final provisions)

1. The following are abrogated:

a) Law 21 April 1962, no. 161 and the Decree of the President of the Republic 11 November 1963, no. 2029, as of the publication date of the Decree in Article 6, paragraph 1;

b) Paragraphs 3, 4, 5 and 6 of Article 3 of Decree 29 March 1995, no. 97, converted, with modifications into Law 30 May 1995, no. 203;

c) Article 77 of Royal Decree 18 June 1931, no. 773;

2. Legislative Decree 31 July 2005, no. 177, as of the same date as in paragraph 1 clause a), has been modified as follows:

a) Article 34, paragraph 1, the words: "eighteen years" are followed by: ", in accordance with the regulations then in force, or unrated or rated unsuitable for children under eighteen years of age.";

b) Article 34, paragraph 2, "fourteen years" are followed by: ", in accordance with the regulations then in force, or classified as unsuitable for children under fourteen years of age";

c) Article 35, paragraph 3 has been changed to: "Breaches of the regulations in Article 34, paragraph 1 shall be punished with the penalties envisaged in current regulations on cinema managers and business managers, where closure is equivalent to equipment deactivation."

3. This law does not introduce any new or additional costs to the state.