

FILTERED FUTURES

FUNDAMENTAL RIGHTS CONSTRAINTS OF UPLOAD FILTERS AFTER THE CJEU RULING ON ARTICLE 17 OF THE COPYRIGHT DIRECTIVE

The CJEU decision on Article 17 of the copyright directive has defined a framework for the use of automated content moderation. The Court considers filtering obligations compatible with the right to freedom of expression and information as long as they are limited to use cases that allow for a robust automated distinction between legal and illegal content. In the context of Article 17, upload filters may therefore only be used by online platforms to block manifest infringements of copyright law. The Court leaves it up to the Member States to ensure that legal uses remain unaffected by their national transpositions of Article 17.

This judgment raises a host of important questions for the enforcement of copyright law as well as for the compatibility of upload filters with fundamental rights even beyond copyright law. To discuss these consequences, COMMUNIA and Gesellschaft für Freiheitsrechte are jointly hosting the Filtered Futures conference on Monday, September 19th 2022, in Berlin. We are inviting papers from all disciplines contributing to the conference theme.

To present your work at Filtered Futures, please complete the submission form by July 10th, 2022. The form asks for a short abstract of your talk. In addition, we will offer an opportunity to present your work to a broader audience through the COMMUNIA blog or a dedicated publication.

All applicants will be notified by July 22th, 2022.

It will be possible for a limited number of people to attend the conference without presenting their work. Please request participation with: uploadfilter@freiheitsrechte.org

Participation will be free of charge. A light lunch will be served. A limited budget to support travel and accommodation expenses for presenters is available.

WHEN?

September 19th, 2022

WHERE?

Robert Bosch Stiftung, Berlin

SUBMISSION DEADLINE?

July 10th, 2022 → [[here](#)]

CONTACT FOR REGISTRATION/QUESTIONS?

uploadfilter@freiheitsrechte.org

POSSIBLE TOPICS FOR CONFERENCE CONTRIBUTIONS INCLUDE:

1. The impact of the ruling on existing national implementations of Article 17:

- How are verbatim implementations to be interpreted?
- Does the Court mandate or enable a harmonized EU-wide technical implementation of Article 17 by platforms?
- Do any national implementations violate the standards set by the ruling?
- What role will the Commission guidance play in application of Article 17?

2. Rights and obligations of rights holders and users:

- standards for “information provided by rightsholders”
- enforcement of user rights
- measures against misuse of copyright enforcement tools
- sanctions for non-compliance beyond platform liability?

3. Minimum fundamental rights safeguards for the use of upload filters:

- different standards for voluntary (based on terms and conditions) and mandatory filtering by platforms?
- Do filters sufficiently distinguish between legal and illegal uses?
- ex-ante safeguards for use of upload filters

4. Impacts on the relationship of Article 17 to other norms:

- intermediary liability for platforms that don't qualify as OCSSPs
- Digital Services Act
- other sector-specific content regulation (TERREG, protection of minors)

5. Implications of the ruling on CJEU freedom of expression case-law:

- prior restraint and its necessary safeguards
- scope of ban on general monitoring obligations