[FR] Rejection of application for annulment of decree on removal of terrorist content online

IRIS 2025-7:1/13

Amélie Blocman
Légipresse

A number of associations are seeking the annulment, on grounds of ultra vires, of decree no. 2023-432 of 3 June 2023 implementing Articles 6-1-1 and 6-1-5 of Law no. 2004-575 of 21 June 2004 on confidence in the digital economy (as amended by the Law of 16 August 2022), and Regulation (EU) 2021/784 of 29 April 2021 on addressing the dissemination of terrorist content online. This decree designates the administrative authority with jurisdiction to issue injunctions for the removal of terrorist content, specifies the procedures for exchanging information between the authorities concerned and lays down the procedural rules for appeals against such injunctions.

First of all, the *Conseil d'Etat* (Council of State) held that, contrary to the claims of the applicant associations, the contested decree did not authorise automated processing of personal data. The argument that the decree had been issued under an irregular procedure that disregarded the procedures established by the Law of 6 January 1978 was rejected.

On the merits, the associations challenged in particular the one-hour deadline given to hosting service providers to implement removal orders, which they considered incompatible with the right to an effective remedy and freedom of expression.

The *Conseil d'Etat* ruled that, although the one-hour time limit made it impossible in practice for a court to suspend the injunction before it had been executed, this in itself did not constitute a disproportionate infringement of the freedom of expression of the authors of the content in question, since Article 9 of the Regulation of 29 April 2021 provided that hosting service providers who had received a removal order, as well as content providers affected by such an order, were entitled to an effective remedy and required member states to put in place effective procedures for the exercise of this right.

The *Conseil d'Etat* also dismissed complaints relating to the specific measures imposed by Article 5 of the Regulation to prevent the further dissemination of terrorist content, ruling that they were defined in a sufficiently precise, targeted and proportionate manner, without imposing a general obligation to monitor content.

© European Audiovisual Observatory (Council of Europe) 2026

Lastly, the *Conseil d'Etat* rejected the allegation that the right to an effective remedy had been infringed, since the remedies provided for under domestic law, including before the administrative courts within restricted time-limits, met the requirements of European Union law.

The applicant associations and foundations therefore had no grounds for seeking the annulment of the decree on grounds of ultra vires.

CE, 16 juin 2025, n° 478441, La Quadrature du net et a.

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-16/478441

Council of State, 16 June 2025, no. 478441, La Quadrature du net et al.

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-16/478441

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026