[NL] Court Rejects Broadcaster's Appeal Over European Works Quota

IRIS 2015-4:1/18

Rachel Wouda
Institute for Information Law (IViR), University of Amsterdam

On 13 January 2015, the District Court of Amsterdam declared the appeal by the broadcaster Sapphire against a decision refusing to grant it exemption from the European works quota for the years 2008-2012 inadmissible, as exemptions cannot be granted retrospectively.

The Audiovisual Media Services Directive mandates that broadcasters are required to include a certain percentage of European works in their programming schedules. TV channels in the Netherlands should reserve more than half of their transmission time for European works, on the basis of Article 3.20 of the Dutch Media Act (Mediawet). Under paragraph 2 of that Article, the Dutch Media Authority (Commissariaat voor de Media - CvdM) may grant temporary partial exemption from the obligation to fulfil the European works quota in special circumstances.

Sapphire Media International B.V. is a broadcaster of adult entertainment. Sapphire requested full exemption from the obligation to comply with the European works quota for the year 2008 and partial exemption for the years 2009-2011. On 4 December 2012, the Dutch Media Authority denied the request for exemption for 2008 because, under Article 7, paragraph 5 of the Authority's Policy on Programme Quotas (Beleidsregels programmaquota), exemption cannot be granted retrospectively. Sapphire appealed this decision, but the appeal was declared unfounded and the original decision was upheld.

Sapphire appealed this decision before the Amsterdam District Court, stating that it breached the principle that a decision must contain a statement of reasons, the principle of equality, European law, and the principle of equal consideration of interests. Sapphire noted that it was unlikely that other commercial media companies specialising in broadcasting American programmes, such as the Disney Channel and HBO, would have met the quota. Thus, according to Sapphire, to exempt them from the obligation to comply with the European works quota and not grant exemption to Sapphire would constitute a breach of the principle of equality. Sapphire stated that its main interest in appealing lies in receiving an explanation of the Policy on Programme Quotas.

© European Audiovisual Observatory (Council of Europe) 2026

However, the District Court ruled that it is only required to assess the content of an appeal filed against a decision of a governing body if the applicant has shown sufficient actual and current interest in the matter. If sufficient interest is not shown, as is the case when the interest has expired, the administrative court may dismiss the case.

The Dutch Media Authority has not started any proceedings against Sapphire for breaching the Dutch Media Act and has made clear that it would not pursue enforcement. The decision regarding the exemption for the years 2008-2012 therefore cannot lead to any legal consequences. The court concluded that the applicant lacks the necessary interest in appealing the decision.

Rechtbank Amsterdam, 13 januari 2015, Sapphire Media International B.V. tegen Commissariaat voor de Media, ECLI:NL:RBAMS:2015:105

http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2015:105

Amsterdam District Court, 13 January 2015, Sapphire Media International B.V. v. Commissariaat voor de Media, ECLI:NL:RBAMS:2015:105

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026