Court of Justice of the European Communities: Dutch Ban on Private Commercial Channel Upheld

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The Court of Justice of the EC ruled on 5 October 1994 that the Dutch authorities had justifiably prevented TV10 from being distributed by Dutch cable networks.

TV10, a private broadcasting station owned by independent producer Joop van den Ende, had chosen Luxembourg as a place of residence to circumvent the strict Dutch rules on national broadcasters. The Commissariaat voor de Media (Dutch Media Authority) banned the channel because the target audience was the Dutch public, the daily management was to a large extent in the hands of persons of Dutch nationality, most of the employees involved in TV10's programmes were from the Netherlands and commercials were to be made in the Netherlands. In addition, the programmes were meant to be transmitted by cable networks primarily in Luxembourg and the Netherlands; TV10 concluded contracts with cable system operators in Luxembourg and the Netherlands only and not in other States of the European Union.

The ban resulted in a request to the Court of Justice for a preliminary ruling. The Court ruled that in a case in which the broadcaster establishes itself in another Member State in order to circumvent the regulations of the country or countries to which the broadcasts are wholly or principally directed, it has to comply with the rules for national broadcasting stations.

Court of Justice of the European Communities, 5 October 1994, Case C-23/93, Commissariaat voor de Media v. TV10 S.A.

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