# [FR] ARCOM fines C8 for failing to control programme content and violating human rights

**IRIS 2023-3:1/6**

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On 9 February 2023, ARCOM (the French audiovisual and digital communications regulator) fined television channel C8 EUR 3.5 Million following remarks made during its programme "*Touche pas à mon poste*" broadcast on 10 November 2022.

French MP Louis Boyard (of the 'La France Insoumise' political party), a former pundit on the programme, had been invited to talk about the reception of migrants on board a humanitarian ship. When he began discussing the unequal distribution of wealth and the activities in Africa of Vincent Bolloré, shareholder of the Canal+ group, which triggered an initial volley of responses by presenter Cyril Hanouna (the subject of a formal notice issued by ARCOM), the latter interrupted him, causing him to accuse the presenter of infringing his freedom of expression. The guest was then called an "*abruti*" (moron), "*tocard* " (loser), "*bouffon*" (fool) and "*merde*" (shit) before leaving the studio. The discussion continued after the MP had left, when he was referred to as a "*mange-merde*" (shit-eater).

In a letter of 24 November 2022, the ARCOM director general referred the case to the independent rapporteur in accordance with Article 42-7 of the Law of 30 September 1986. The rapporteur informed C8 that it would be the subject of a sanction procedure because several formal notices had already been issued to the channel for violations of its obligations to control the content of its programmes (Article 2-2-1 of its licence agreement) and respect human rights (Article 2-3-4 of its licence agreement).

With regard to the obligation to respect human rights, ARCOM ruled that the words used had been offensive and that the use of multiple insults had been highly aggressive. They had therefore infringed the guest's right to respect for his honour and reputation. This sequence, which had lasted more than nine minutes, had therefore breached Article 2-3-4 of the broadcaster's licence agreement.

Concerning the obligation to control programme content, the decision stressed that the insults directed at the guest in a prolonged and repeated manner had primarily been spoken by the presenter himself, and that no other person on the set had tried to temper or tone down his remarks. On the contrary, all the pundits who had spoken had supported the presenter. ARCOM considered that the

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broadcaster had therefore failed to control the content of the programme, despite its obligation to put effective measures in place. This sequence had therefore also breached Article 2-2-1 of the broadcaster's licence agreement.

In view of the nature and extent of these infringements and the formal notices previously issued for violations of the same obligations, ARCOM imposed a fine of EUR 3.5 Million on the C8 company, i.e. 3.65% of its 2021 turnover. This money will be allocated to the *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Moving Image — CNC) in accordance with Article L. 116-5 of the Cinema and Animated Image Code.

On the same day, the European Court of Human Rights dismissed a claim by C8 that a previous EUR 3 Million fine imposed by the CSA (ARCOM's predecessor as the French audiovisual regulator) in 2017 had violated its freedom of expression protected by Article 10 of the European Convention on Human Rights.

***Décision no 2023-63 du 9 février 2023 portant sanction pécuniaire à l'encontre de la société C8***

https://www.legifrance.gouv.fr/download/pdf?id=3moJtl8Gesxg05r_oq87F4Pqi02HBCGCO3as8ZOHa38=

*Decision no. 2023-63 of 9 February 2023 imposing a fine against C8*

***Arrêt du 9 février 2023, affaire C8 (CANAL 8) c. FRANCE, (requêtes nos 58951/18 et 1308/19)***

https://hudoc.echr.coe.int/eng?i=001-222892

*Judgment of 9 February 2023, case of C8 (Canal 8) v. France (application nos. 58951/18 and 1308/19)*

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