[NL] Secretary of State refuses to withdraw broadcaster Ongehoord Nederland's recognition as a public broadcaster

IRIS 2024-1:1/16

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On 27 November 2023, the Secretary of State for Culture and Media issued a high-profile provisional decision, refusing a request by the *Stichting Nederlandse Publieke Omroep* (Dutch Public Broadcasting Foundation - NPO) to withdraw the recognition of the broadcaster *Ongehoord Nederland* (ON) as a public broadcaster. This follows the NPO having imposed three separate fines on the broadcaster, including a EUR 131 000 fine in April 2023 for "systemic violation" of the NPO Journalistic Code in relation to the broadcaster's news programme; a EUR 84 000 fine in July 2022 for an earlier systematic violation of the NPO Journalistic Code, and a EUR 56 000 fine in December 2022 for a "lack of cooperation" (IRIS 2023-6:1/16). Subsequently, the NPO requested the *Commissariaat voor de Media* (Dutch Media Authority) to take further enforcement action against the broadcaster, which the Authority refused in April 2023 (IRIS 2023-6:1/16). While in July 2023, the Board of Directors of the NPO issued a decision, upholding the financial sanction imposed on the broadcaster (IRIS 2023-8/17).

Crucially, in April 2023, the NPO's Board of Directors made a formal request to the Secretary of State for Culture and Media to withdraw the recognition of the broadcaster, based on a "lack of willingness to cooperate" on the part of the broadcaster. The State Secretary considered the request, and on 27 November 2023, issued a provisional decision rejecting the request. First, the State Secretary noted that it had "never happened that a minister had to consider a request for withdrawal", and revoking the permit was a "very serious measure" and, the government "must therefore be particularly cautious in doing so". Importantly, the State Secretary stated that "cooperation is indeed difficult due to Ongehoord Nederland's attitude". However, according to the State Secretary, there is "insufficient legal basis to make such a far-reaching decision". The State Secretary stated that the "journalistic code is not about collaboration, but about quality requirements that a broadcaster must meet".

However, this does not mean that "nothing is wrong", as the NPO had imposed a sanction on the broadcaster several times and the Ombudsman has repeatedly found that the broadcaster had violated the journalistic code. However, the broadcaster has "shown in the past year that it is willing to improve things", and the State Secretary expected the broadcaster to "continue this line of

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improvement". The State Secretary also wants the NPO and the broadcaster to "resume constructive discussions".

Finally, the State Secretary added that there are "not enough legal grounds to withdraw ON's provisional recognition. I see there are problems. But for the time being I have not observed such a manifest and structural lack of willingness to cooperate that this justifies the severe remedy of withdrawal. I would like to emphasize that I cannot and do not wish to pass judgment on the content of ON's programming. It is essential that we protect journalistic freedom, in all its manifestations and extremes".

The Secretary of State's decision is provisional. The parties involved will now have two weeks to submit their views, and a final decision will then follow.

Staatssecretaris Cultuur en Media, Ongehoord Nederland behoudt voorlopige erkenning, 27 november 2023

https://www.rijksoverheid.nl/ministeries/ministerie-van-onderwijs-cultuur-en-wetenschap/nieuws/2023/11/27/ongehoord-nederland-behoudt-voorlopige-erkenning

Secretary of State for Culture and Media, Ongehoord Nederland retains provisional recognition, 27 November 2023

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