[FR] *Conseil d'État* reviews ARCOM's powers to monitor pluralism and independence of information

IRIS 2024-3:1/12

Amélie Blocman
Légipresse

A few days before the *Autorité de régulation de la communication audiovisuelle et numérique* (the French audiovisual regulator – ARCOM) launched a call for applications for frequency allocations, with the licences held by 15 national television services, including CNews, due to expire soon, the *Conseil d'État* (Council of State) issued an important decision strengthening the regulator's powers to monitor audiovisual media services' compliance with their obligations concerning the honesty, pluralism and independence of information.

The Reporters Without Borders (RSF) association had asked the *Conseil d'État* to annul ARCOM's decision rejecting its application for a formal notice to be issued to the company responsible for the TV channel CNews, requiring it to meet its obligations as a "news-based service" as set out in its licence agreement, and to respect the principles of honesty of information, pluralism and independence of information.

Regarding the company's compliance with its obligations as a "news-based service", the *Conseil d'État* pointed out that CNews's licence, issued in 2019, stated that the service "is devoted to news" and "offers programmes that are continually updated in real time and cover all areas of current affairs". It observed that the service, in the form of news bulletins and studio broadcasts, offered news-based programmes covering all areas of current affairs, and that the channel regularly updated its programmes by displaying rolling news banners and summarising the main news headlines. The *Conseil d'État* therefore ruled that ARCOM had not incorrectly applied the provisions of the Law of 30 September 1986 by refusing to issue the channel with a formal notice on the grounds that, despite the role played by discussion programmes in its programming, it had not infringed its obligations as a news-based service.

The *Conseil d'État* also considered that insufficient evidence had been provided to support the claim that the channel had failed to meet its obligations regarding honesty of information.

In support of its request for a formal notice to be issued to the channel regarding its obligations concerning pluralism of information, RSF had alleged that the channel had failed to ensure that sufficiently diverse viewpoints were expressed

© European Audiovisual Observatory (Council of Europe) 2026

in its programmes, in particular during debates on controversial issues.

The *Conseil d'État* noted that ARCOM, before refusing to issue the formal notice requested, had only assessed respect for pluralism of information by measuring the airtime allocated to political figures. However, France's highest administrative court stated that, under Articles 1, 3-1 and 13 of the Law of 30 September 1986, ARCOM was responsible for ensuring respect for the pluralistic expression of schools of thought and opinion in radio and television programmes, in particular news programmes. It was therefore required to assess broadcasters' compliance with this obligation in the exercise of their editorial freedom by taking into account, across all their programmes, the diversity of schools of thought and opinion expressed by all participants during the programmes broadcast.

Finally, RSF had claimed that the channel's main shareholder had interfered in its programming in contravention of its independence obligations. The *Conseil d'État* stated that, under Article 3-1 of the Law of 30 September 1986, ARCOM should guarantee the honesty, independence and pluralism of information, ensure in particular that broadcasters' licence agreements guaranteed respect for Article 2bis of the Law of 29 July 1881, and ensure that the economic interests of the shareholders of audiovisual communication service providers and their advertisers did not infringe these principles. These obligations are set out in Article 2-3-8 of the channel's licence agreement, which concerns editorial independence.

In this case, the *Conseil d'État* judged that ARCOM had incorrectly applied the provisions of the 1986 law by stating that it could only take action if a specific breach could be established during a specific programme. It ruled that, in view of their nature, ARCOM could assess a broadcaster's compliance with its obligations regarding the independence of information not only by focusing on a given programme, but also by examining its overall operating conditions and programming.

ARCOM was instructed to review RSF's request that it issue a formal notice to the channel's operator, requiring it to meet its obligations with regard to pluralism and independence of information, and to issue a new decision within six months.

CE, 13 février 2024, n° 463162, Association Reporters sans frontières

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjmy7uRhduEAxX58QIHHZZ3A4UQFnoECA8QAQ&url=https%3A%2F%2Fwww.conseil-etat.fr%2FMedia%2Factualites%2Fdocuments%2F2024%2Ffevrier-2024%2F463162.pdf&usg=AOvVaw2GDXySqrrVVd9bj5eT0Xdh&opi=89978449

Conseil d'État, 13 February 2024, No. 463162, Reporters Without Borders

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026