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EDITORIAL

This month, the Croisette is abuzz with excitement, but outside of this glittery bubble, life goes on resolutely. Exhibitors showcase their movies, audiovisual media services broadcast programmes, regulatory authorities ensure the proper enforcement of rules, and legislators continue to shape the sector.

Across Europe, significant legislative milestones are being achieved. In Luxembourg, the DSA has been incorporated into national legislation, thereby entrusting the Competition Authority with the responsibility of ensuring that platforms function in a secure and transparent manner. The Netherlands has introduced a bill to implement the EU's anti-SLAPP directive, and Spain is making progress with legislation to better protect minors online. Meanwhile, Armenia has launched a new cash reimbursement scheme, and Czechia has amended its law on radio and television licence fees.

With regard to enforcement, regulators are increasingly turning to the EU's suite of digital regulations. Recent examples of this include TikTok being fined by the Irish Data Protection Commission for transferring users' data to China without adequate safeguards, and the European Commission finding that Apple and Meta are in breach of the Digital Markets Act.

But coming back to Cannes and while waiting for the announcement of the Palme d'Or winner, you are welcome to watch the conference organised by the Observatory at the Marché du Film last weekend, which offers a taste of the Cannes atmosphere.

Enjoy the read!

Maja Cappello, Editor

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INTERNATIONAL

COUNCIL OF EUROPE

COE: EUROPEAN COURT OF HUMAN RIGHTS

European Court of Human Rights: Judgment underscores public interest in transparency in administration of criminal law

Tarlach McGonagle
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The European Court of Human Rights (Third Section) held unanimously in a judgment of 4 March 2025 that there had been a violation of Articles 10 and 13 of the European Convention on Human Rights (ECHR) in the case of *Girginova v. Bulgaria*. The case arose from the refusal of a journalist's request to the Sofia City Court to access to its reasons for acquitting a former Minister of Internal Affairs in a criminal case against him. The former minister had been accused of failing to supervise the serious misuse of covert surveillance technology by his subordinates at the Ministry. The criminal case was classified and heard behind closed doors; the reasons for the acquittal were not published.

The roots of the case lie in a complaint that staff at the Ministry of Internal Affairs had engaged in widespread unlawful covert surveillance of politicians, judges and business persons while a previous government had been in power. The complaint was passed on to the prosecuting authorities. This led to three heads of unit at the Ministry of Internal Affairs being charged under the Bulgarian Criminal Code with misconduct in public office by a person subject to military law. The prosecuting authorities subsequently found evidence that led them to also charge the former Minister with knowingly allowing his subordinates to commit an offence relating to their public duties.

While the case against the four accused was being prepared, the Bulgarian Parliament amended a relevant provision of the Bulgarian Criminal Code. The amendment changed the criteria for liability for offences against military law: henceforth, public officials could only be liable for such offences if they were committed in certain circumstances, such as during wartime, active service or in the context of foreign missions or operations. The Sofia City Court subsequently acquitted all four accused. The presiding judge informed the media outside the courtroom that the amendment was one of the reasons for the acquittal, but did not give further details as the case was classified and the judgment was not rendered public.

Ms. Girginova, a journalist working for an online media organisation specialising in matters concerning the judiciary, sought access to the reasoning in the Sofia City

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Court's judgment. Her request was turned down because the reasons for the judgment contained classified information: the case concerned not only evidence gathered through "special means of surveillance", but also general and technical details of how such means were used. The entire case file was classified as "secret", which meant it did not fall under the general rule that all judicial decisions are to be published on the court's website. The applicant sought judicial review of the refusal, but the refusal was upheld by the national courts, including on appeal.

When considering the admissibility of the case, the European Court of Human Rights recalled that Article 10 of the Convention does not explicitly guarantee a right of access to information, but that such a right can arise pursuant to a court order or "if access to the information is instrumental for the exercise of the right to freedom of expression of the person seeking it" (*Magyar Helsinki Bizottság v. Hungary* [GC], IRIS 2017-1:1/1). It then applied the four criteria developed in its *Magyar Helsinki Bizottság* judgment to the facts of the case:

1. Purpose of the information request: there was a "proper journalistic purpose" (seeking the information was a preparatory step for reporting on the justice system) and it is part of the duties and responsibilities of journalists to scrutinise the judicial system for the general public (as it would not be "practical" to expect the general public to "directly" scrutinize the judicial system).

2. Nature of the information sought: there was a very strong public interest in transparency and accountability surrounding the requested information, which concerned the reasons for acquittal of a former minister for failing to supervise the misuse of covert surveillance equipment and how the prosecuting authorities and the courts dealt with those criminal charges.

3. Role of the seeker of the information: the seeker was a journalist, contributing to the important role of the media in ensuring the availability of information about criminal proceedings.

4. Whether the information was ready and available: this was the case as the information was contained in a single document.

The Court considered the merits of the application under Articles 10 and 13 ECHR. In its assessment under Article 10, the Court accepted – with some hesitation – that the interference with the applicant's right to freedom of expression was prescribed by law. It accepted, more readily, that the legitimate aim of the interference fell within "the interests of national security" (Article 10(2), ECHR). The crux of the assessment was whether the interference was necessary in a democratic society. The Court underscored the public interest in questions concerning the functioning of the justice system and the value of publicising judgments for maintaining public confidence in the courts and for helping to ensure a fair trial. It added that reasoned judgments can be safeguards against the maladministration of justice. The public interest in the present case was particularly strong, given that it involved the refusal to disclose reasons for the acquittal of a senior member of government of serious offences. This high-profile case could moreover be situated in a broader pattern of scandals around the

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misuse of special means of surveillance. Notwithstanding the national security concerns, the Court held that “wholly concealing the judgment from the public” could not be justified. The Court countenanced other less far-reaching solutions, such as the classification of the judgment in part only, or its publication in redacted form.

The Court also held that the Bulgarian authorities had failed to provide the applicant with an effective remedy under Article 13 ECHR.

Girginova v. Bulgaria, no. 4326/18, 4 March 2025 ECLI:CE:ECHR:2025:0304JUD000432618

https://hudoc.echr.coe.int/eng?i=001-242053

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COE: EUROPEAN COURT OF HUMAN RIGHTS

European Court of Human Rights: New judgment finds systematic violations of freedom of expression and media freedom by Russia

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The European Court of Human Rights (Third Section) has found, unanimously, numerous violations of the right to freedom of expression and media freedom in *Novaya Gazeta and others v. Russia*, a judgment of 11 February 2025. The scale of the violations reveals a structural or systemic character: the Court joined 161 other applications to that of the newspaper, *Novaya Gazeta*, as they all concerned similar subject matter.

The violations took place on the back of new rules introduced immediately or shortly after the full-scale military invasion of Ukraine by Russia, which was framed by President Putin as a "special military operation". The rules, issued by the Federal Service for Supervision of Communications, Information Technology and Mass Media (*Roskomnadzor*) and the Prosecutor General's Office, sought to restrict access to war reports by Russian independent media outlets and to allow only information and data obtained from official Russian sources. Amendments to the Code of Administrative Offences and the Criminal Code followed quickly. Those amendments concerned the "dissemination of knowingly false information about the deployment of the Russian Armed Forces, and public calls to prevent their deployment".

There were no real obstacles to admissibility: the facts amounting to the alleged interference with the applicants' rights occurred before 16 September 2022 – the date on which the Russian Federation ceased to be a Party to the Convention. Cessation of a State Party's membership of the Council of Europe does not relieve that Party of its duty to cooperate with the organs of the Convention, including the European Court of Human Rights. Nevertheless, the Russian authorities did not submit any written observations in this case. In accordance with the settled case-law of the Court, such a manifest intention of non-participation cannot impede the examination of the case. It should also be noted that Russia did not comply with the Court's decision on interim measures under Rule 39 of the Rules of the Court. In light of the exceptional circumstances involved, the Court had decided that the Government of Russia had to abstain until further notice from actions and decisions aimed at fully blocking and terminating the activities of *Novaya Gazeta*, as well as other actions that could deprive the newspaper of exercising its rights under Article 10 of the European Convention on Human Rights (ECHR). The Ukrainian Government joined the case as a third-party intervener in respect of the three applications submitted by Ukrainian nationals.

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After establishing the existence of an interference with the applicants' right to freedom of expression, the Court assessed whether the interference met the "prescribed by law" criteria. The conviction of the applicants by the "courts" in Crimea was held to be unlawful, given that the extension of Russian law to Crimea is in contravention of the ECHR. The other applicants were convicted based on provisions of the Russian Criminal Code and Code of Administrative Offences that were introduced or amended shortly after the start of Russia's full-scale military invasion of Ukraine. The Court expressed "serious doubts" as to whether those provisions were formulated with sufficient clarity and precision as to render their consequences foreseeable and thus offer adequate protection against arbitrariness.

Nor was the Court satisfied that the interference pursued legitimate aims in the sense of Article 10(2) ECHR. It observed that "the impugned measures were applied indiscriminately to a wide range of expressions, including peaceful anti-war protests, factual reporting on the events in Ukraine from non-official sources and statements of support for Ukraine". It thus found it "difficult to discern how expressions of pacifism or independent reporting could pose a genuine threat to national security, territorial integrity or public safety".

Notwithstanding its misgivings about whether the first two prongs of the assessment had been met, the Court proceeded to examine whether the interference was necessary in a democratic society.

The Court summarised the subject matter of the applications neatly, observing that the applicants "were subjected to various forms of interference with their freedom of expression, including administrative fines, pre-trial detention, prison sentences and closure of media outlets, for expressing views critical of Russia's military actions in Ukraine or disseminating information that diverged from official accounts". The Court also categorised the impugned expressions neatly: "peaceful anti-war protests, such as displaying the slogan "No to war"; expressions of support or solidarity with Ukraine; drawing historical parallels between the current conflict and past wars; sharing information about civilian casualties and alleged war crimes; general criticism of Russian military actions and government policy, and support for international sanctions against the Russian leadership". All of these expressions "pertained to a matter of intense public interest and significance: an unprovoked military aggression against a neighbouring State, leading to a major international armed conflict with profound implications for both European and global security". In a democratic society, public debate on such issues is "crucial"; any restrictions on such debate therefore warrant the Court's closest scrutiny.

The Court recalled several key principles from its settled case-law and applied them to the facts of the cases at hand: in the spirit of the Handyside doctrine (that the right to freedom of expression also offers protection to expression that may offend, shock or disturb), even caustic political expression directed at the government is protected under Article 10 ECHR; it is important for the voices of small and informal campaign groups and individuals to be heard in public debate; symbolic speech and the use of foreign national symbols and colours are in

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principle protected under Article 10 (except in specific, narrowly-defined and historically-contingent situations); satirical and provocative expressions conveying anti-war messages are also protected, even for example, when they may seem crude and shocking to some sections of society; the “use of controversial and provocative imagery, such as Nazi symbols, to draw parallels with current events may also constitute a legitimate rhetorical device to stimulate public debate”, for example, comparing “the “Z” symbol used by Russian forces and Nazi emblems, including the swastika”; expressions of outrage and debate about acts which may constitute war crimes or crimes against humanity, including the Bucha massacre and the Mariupol theatre bombing, must be able to take place freely; restricting the dissemination of reports on alleged atrocities impedes transparency, scrutiny and accountability and blanket bans on discussing alleged war crimes are not compatible with Article 10.

All in all, the Court observed “a systemic and widespread pattern of unjustified restrictions on expression related to the war in Ukraine” and a “coordinated effort by the Russian authorities to suppress dissent rather than mitigate specific security threats”. The Court found that the wide and far-reaching restrictions appeared to be part of a broader campaign, in which “a broad interpretation of terms such as “discrediting” the armed forces or disseminating “knowingly false information” […] “facilitated the prosecution of statements that should be protected in a democratic society, including criticism of foreign policy or the sharing of information from diverse sources during an armed conflict”. The Court found “no justification for restricting peaceful, non-violent expression, particularly through the imposition of criminal sanctions involving pre-trial detention and deprivation of liberty”. It concluded that these measures not only caused a chilling effect on freedom of expression, but also intimidated civil society and silenced dissenting voices.

The Court found that the domestic courts did not make any genuine effort to balance the applicants’ right to freedom of expression with possible legitimate aims such as protecting national security, or to assess the accuracy of information about alleged war crimes or the good faith behind its dissemination. “Instead”, the Court held, “any deviation from the official narrative, including the use of the term “war” rather than “special military operation”, was regarded as harmful, without consideration of the content or context of the expressions in question”. The Court also held that the authorities effectively criminalised “the reporting of any information that contradicted the official narrative”, thus breaching the public’s right to be informed of a different perspective on the situation in Ukraine.

The Court also held that the nature and severity of the penalties were disproportionate and that they appeared to have the aim of not only punishing individual applicants, but of sending “a clear and intimidating message to society at large, thereby stifling public debate on matters of vital public interest”, thus fostering a climate of self-censorship. The blocking of independent media’s websites and the revocation of the publication licence of Novaya Gazeta amounted to sweeping measures that “effectively silenced important independent voices in Russian society, significantly restricting the public’s access to diverse sources of information on matters of crucial public interest”. Finally, the Court

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also found breaches of other Convention articles, in particular Articles 5 and 3, arising out of the pre-trial detention and conditions of confinement of some of the applicants.

Judge Pavli wrote a concurring opinion in which he offered a very probing reflection on how Russia progressively dismantled its national instruments and structures for the protection of human rights and the rule of law over a protracted period of time. His reflection also focuses on how the Court dealt with those developments in its case-law; tracing what it has done and asking what else it could have done. His reflection culminates in a set of questions that concern the essence of the Court's role as a "watchdog of democracy": "can it be said that the Court sounded the alarm loudly enough, and early enough? And more importantly for the future, is it now prepared to do so in relation to other European political systems whose democratic protections might be eroding in ascertainable ways?"

Novaya Gazeta and others v. Russia, nos. 11884/22 and 161 others, 11 February 2025 ECLI:CE:ECHR:2025:0211JUD001188422

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COE: EUROPEAN COURT OF HUMAN RIGHTS

European Court of Human Rights: Verbal threats and concerted campaign of intimidation against journalists violate their freedom of expression and private life

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In *Milashina and others v. Russia*, a unanimous judgment of 4 March 2025, the European Court of Human Rights (Third Section) found that a number of verbal threats against journalists reporting on Chechen affairs, in the form of statements by high-level political and religious figures, amounted to a concerted campaign of intimidation against the journalists. The statements included language that was "dehumanising". The Court held that the applicants' right to freedom of expression and to respect for private life had been violated, pursuant to Articles 10 and 8, respectively, of the European Convention on Human Rights.

At the operative time, the applicant company was an independent editorial and publishing house, which published the national newspaper, *Novaya Gazeta*. The three individual applicants were Ms. Milashina, a staff journalist and editor in the newspaper's special projects department; Mr. Muratov, chair of the newspaper's editorial council and joint 2021 Nobel Peace Prize winner (with a Filipino journalist, Maria Ressa); and Mr. Kozheurov, editor-in-chief of the newspaper and director of the company. As a preliminary matter, in the context of admissibility, the Court reaffirmed, on the basis of previous case-law, that not only authors and editors can invoke the right to freedom of expression, but also publishers, provided that theyabide by the duties and responsibilities that govern the exercise of the right. These considerations were relevant for the applicant company.

On 1 April 2017, *Novaya Gazeta* published Ms. Milashina's article, "Honour Killing", which reported mass abductions, arbitrary detentions, torture and killings of Chechen men who were allegedly homosexual or perceived to be homosexual by the Chechen authorities. The credibility of those allegations was borne out by subsequent reports by various international organisations and leading international media. A related follow-up article was published in the newspaper on 4 April 2017.

On 2 April, a governmental Minister of the Chechen Republic issued a statement on Grozny-Inform, a local state-run internet news portal, in which he described the LGBTQI community as "filth", warned of persecution and said he could not exclude the possibility of (others taking) "more radical measures". On 3 April, a meeting was held in the central mosque of Grozny; it was attended by representatives of 24 local communities, Islamic religious and community leaders, and in total 15,000 people. During the meeting, an advisor to Ramzan Kadyrov (Head of the Chechen Republic) called *Novaya Gazeta* journalists "enemies of our

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faith and our homeland". His speech and the statements by the religious leaders were broadcast by the Chechen State Television and Radio, and they were widely disseminated online. The meeting led to the adoption of a resolution that virulently criticized and dismissed the *Novaya Gazeta* publication and promised retribution for the instigators (journalists). The full text of the resolution was subsequently published on Grozny-Inform. In a broadcast on 14 April, the Mufti of the Chechen Republic and the Chairman of the Muslim Spiritual Authority of Chechnya stated during a radio broadcast that he did not wish to refer to the Novaya Gazeta journalists as "people", before proceeding to refer to Ms. Milashina as a "creature". The next day, Grozny-Inform published another statement by the Mufti of the Chechen Republic, in which he again promised divine retribution. On the same day, the aforementioned Chechen government minister again lashed out at the *Novaya Gazeta* journalists, again via a statement published on Grozny-Inform. A few days later Mr. Kadyrov criticized the *Novaya Gazeta* journalists, stating that they should be chased "far away from our territory".

The applicants perceived these statements by various high-level Chechen political and religious leaders as threats. Ms. Milashina was subjected to a barrage of abusive messages online, including threats and death threats. She had to take extra personal security measures, such as using a signal-jamming device, relocating from her home, limiting her use of public transport, and being accompanied by a driver. Later in 2017, she had to leave Russia out of fears for her safety and because the authorities had not taken any real steps to investigate the threats she had received. Attempts by the applicants to initiate criminal proceedings in connection with the threats were consistently thwarted by the authorities; their requests to open a criminal case were consistently dismissed, including on appeal.

At the start of its substantive assessment, the Court recalled the guiding principle that States have a positive obligation under Article 10 ECHR to create a safe and favourable environment in which everyone can participate in public debate, without fear, even when their opinions and ideas are contrary to those held by state authorities or significant sections of the public. This positive obligation was first formulated by the Court in its *Dink v. Turkey* judgment (2010).

The Court took the view that the statements detailed above, and in particular the resolution of 3 April 2017, "could be understood by the general public, and large numbers of religious believers in particular, as inciting or justifying animosity and violence against the journalists of *Novaya Gazeta*". The Court pointed to the content of specific statements in support of this finding. It also underlined how statements made by "the Mufti of Chechnya, the region's highest religious authority, referred to the journalists, and Ms. Milashina specifically, in dehumanising language ("I do not consider them people" and references to them as "creatures") and repeated the threats of divine retribution in ways that could have incited violence by individual believers".

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The Court attached significance to the prior history of deadly violence targeting *Novaya Gazeta* journalists: between 2000 and 2009, five journalists writing for the newspaper, including reporting on Chechen affairs, were murdered, including Anna Politkovskaya, and eight journalists were attacked. The Court acknowledged that while government officials have the right to respond to media allegations, even vigorously, there are lines that must not be crossed, namely engaging in illegal threats and intimidation of journalists. In this regard, the Court might usefully have referred to the Council of Europe Committee of Ministers' Recommendation CM/Rec(2016)4 to member States on the protection of journalism and safety of journalists and other media actors (IRIS 2016-5:1/3). Guideline 15 in the Appendix to the Recommendation, for instance, reads: "State officials and public figures should not undermine or attack the integrity of journalists and other media actors, for example on the basis of their gender or ethnic identity, or by accusing them of disseminating propaganda, and thereby jeopardise their safety". The same guideline also calls on State officials and public figures to "publicly and unequivocally condemn all instances of threats and violence against journalists and other media actors, irrespective of the source of those threats and acts of violence". However, the Court did not refer to or leverage the Recommendation, even though the applicants had mentioned it.

The Court grouped the initial verbal threats against the applicants into two "distinct but interrelated" sources: "they included public statements made by senior religious figures of Chechnya; which were echoed and reinforced, in turn, by public statements made by senior Chechen government officials, thus amounting to a concerted campaign of intimidation against the applicants". The national authorities did not distance themselves from those statements at any stage or at any level. The Court also noted that the initial threats were followed by additional threats by unidentified persons, suggesting that the initial threats were inciteful, both in nature and in effect.

The Court considered that the statements made by the senior public officials which reinforced the message of the resolution of 3 April 2017, were capable of engaging the State's responsibility under the ECHR. State responsibility for violations of human rights may arise from acts of any of its organs or agents, including statements and threats such as those made in the present case. Those statements and threats had a direct impact on the applicants' journalistic activities and were capable of having a serious chilling effect on their freedom of expression. The Court found that the statements: "made the applicants fear for their lives and personal safety, attempted to discourage them from pursuing their journalistic investigations and were serious enough to force Ms Milashina to leave the country".

The Court reached the conclusion that the Russian authorities had not taken any reasonable steps to conduct a thorough investigation into the threats, which could have included, for instance, gathering evidence in a timely fashion or pursuing a particular line of inquiry. Nor was there any indication that the Russian authorities had taken steps to assess the threats against the applicants or to prevent the threats being acted upon. Russia had thus failed to fulfil its negative obligation of

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non-interference and its positive obligation to take reasonable and appropriate measures to enable the exercise of freedom of expression in conditions that are conducive to public debate.

The Court also assessed whether there had been a violation of Articles 2 and 8 ECHR. The applicants had alleged a violation of Article 2, but the Court, as the master of the characterization to be given in law to the facts of the case, opted to focus on Article 8. By making such baseless statements casting doubt on the quality of the applicants' work, the officials clearly intended to "make the applicants feel fearful for their safety, to have them be seen as outcasts by the Chechen people and deter them from carrying out their professional duties".

The statements by the high-level officials and religious leaders directly interfered with the applicants' right to respect for private life and they met the threshold of severity required to engage Article 8. Under that article, States have the negative obligation to abstain from interference with the right to respect for private life, as well as the positive obligation to ensure effective protection of the right, which entails putting in place efficient criminal-law provisions. While criminal sanctions should only be invoked as "an *ultima ratio* measure", "where acts that constitute serious offences are directed against a person's physical or mental integrity, only efficient criminal-law mechanisms can ensure adequate protection and serve as a deterrent factor" and "undisguised calls for attacks on the applicants' physical and mental integrity require protection by the criminal law". The statements by the Chechen political and religious leaders sought to dehumanize the journalists and could have been seen as an invitation or authorisation condoning violent action. The Court found that the national authorities "effectively condoned" the actions of the Chechen officials and the investigation of the applicants' criminal complaints "fell short of being effective", thus constituting a violation of Article 8.

Milashina and others v. Russia, no. 75000/17, 4 March 2025 ECLI:CE:ECHR:2025:0304JUD007500017

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EUROPEAN UNION

EU: EUROPEAN COMMISSION

European Commission fines Apple and Meta for not complying with the DMA

Eric Munch
European Audiovisual Observatory

On 23 April 2025, the European Commission (the Commission) found Apple and Meta in breach of the Digital Markets Act (DMA). Apple was found to have breached its anti-steering obligation, and Meta the obligation to give consumers the choice of a service that uses less of their personal data – both obligations under the DMA. Apple and Meta were fined EUR 500 million and EUR 200 million respectively.

The Commission found that Apple did not comply with its obligation to allow app developers distributing their apps via its App Store to inform customers, free of charge, of alternative offers outside the App Store, steer them to those offers and allow them to make purchases. By imposing a number of restrictions, Apple was found to prevent app developers from benefitting from the advantages of alternative distribution channels outside the App Store, subsequently also preventing consumers from benefitting from alternative and cheaper offers. As part of the Commission's decision, Apple was also ordered to remove the technical and commercial restrictions on steering and to refrain from perpetuating the non-compliant conduct in the future.

With regard to Meta, the Commission found that its "consent or pay" advertising model, launched in November 2023, did not comply with the DMA. The advertising model offered EU users of Facebook and Instagram a choice between consenting to personal data combination for personalised advertising and paying a monthly subscription to an ad-free service. It was found not to comply with the DMA due to the fact that it did not give users the required specific choice to opt for a service that uses less of their personal data while remaining otherwise equivalent to the "personalised ads" service. It also did not allow users to exercise their right to freely consent to the combination of their personal data. Following numerous exchanges with the Commission, Meta had introduced another version of the free personalised ads model in November 2024 which allegedly uses less personal data to display advertisements. The Commission is currently assessing this new option and has requested Meta to provide evidence of the impact that this new ads model has in practice.

The 23 April 2025 decision is without prejudice to the ongoing assessment, as the non-compliance concerns the time period during which end users in the EU were

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only offered the binary “consent or pay” option, between March 2024, when the DMA obligations became legally binding, and November 2024, when Meta’s new ads model was introduced.

Apple and Meta were both given 60 days to comply with the Commission’s decisions.

It is worth noting that the Commission also found that Meta’s online intermediation service, Facebook Marketplace, should no longer be designated under the DMA, following a request submitted by Meta on 5 March 2024. With under 10 000 business users in 2024, the Marketplace was found to no longer meet the relevant threshold that would give rise to a presumption that it was an important gateway for business users to reach end users.

Commission finds Apple and Meta in breach of the Digital Markets Act

https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1085

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NATIONAL

ARMENIA

[AM] Approval of new cash rebate system

Lilit Arakelyan
Cinema Foundation of Armenia

The Armenian Government has approved the procedure and conditions for receiving cash rebates for investments in the film production sector, which envisages a return to the filmmaker of up to 35% of the investments made for that purpose.

Resident and non-resident film-makers of the Republic of Armenia whose activities are classified under codes J59.11 or J59.12 of the Economic Activity Types Classification approved by Decision No. 874-N of 19 September 2013 of the Minister of Economy of the Republic of Armenia, may receive a partial refund of monetary investments made for the purpose of film production in the territory of the Republic of Armenia.

A film producer may receive a 25% rebate for expenses directly related to film production in the Republic of Armenia.

An additional rebate of up to 10% is provided for films in which the Republic of Armenia will be popularised as a destination. Up to 5% rebate is provided for an Armenian producer and up to 10% in the case of a co-production or a non-resident producer.

Those expenses directly related to film production and which are defined in the list of goods, works, and services attached to the decision of the Government of the Republic of Armenia are subject to reimbursement. To receive a partial return on investment, it is mandatory that the goods, services, and works directly related to film production be purchased from resident organisations and individual entrepreneurs of the Republic of Armenia.

The cash rebate system works as follows:

- The film producer must apply to the national body (Cinema Foundation of Armenia) by submitting an application and the required documents.

- The application is examined by a professional group within the established deadlines and transferred to the authorised state body in the case of a positive conclusion.

- The authorised state body makes a decision within the established deadlines on granting or refusing a partial return of investments.

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- If approved, a contract is signed between the film producer and the national body.

- After the film has been produced, it is submitted to the national body, and the rebate is implemented based on the actual expenses incurred.

The goal of the programme is to develop the film industry of the Republic of Armenia and promote foreign investment. The project aims to more effectively use the potential of economisation of culture, generation of additional income, and promotion of cooperation with foreign and international organisations.

ՀՀ Կառավարության որոշումը ֆիլմարտադրության ոլորտում ներդրումների մասնակի վերադարձը տրամադրելու, մերժելու և դադարեցնելու կարգն ու պայմանները, ներդրումների մասնակի վերադարձի ենթակա ծախսերում հաշվարկվող՝ֆիլմարտադրության հետ անմիջականորեն կապված ապրանքների, ծառայությունների և աշխատանքների ցանկը և վերադարձի ենթակա դրամական ծախսերի չափը սահմանելու պայմաններն ու հաշվարկելու նորմատիվները հաստատելու մասին

https://www.arlis.am/DocumentView.aspx?DocID=205494

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CZECHIA

[CZ] Amendment to the Act on Radio and Television Fees

Jan Fučík
Česká televize

Parliament has approved amendments to the Act on Radio and Television Fees, which came into force on 1 may 2025.

The main points of the amendment are the following:

Article 6 states that the monthly amount of the radio fee is CZK 55 and the monthly amount of the television fee is CZK 150.

The same article further sets out that the monthly amount of the radio and television fees shall be increased by 6% from 1 July of the calendar year following the calendar year in which the total amount of inflation accumulated in the years since the last fee increase exceeds 6%. The amount of the radio fee and the television fee are to be rounded up to whole crowns.

A legal entity or natural person who is an entrepreneur shall pay radio and television fees according to the number of employees.

The radio and television fee shall be paid for any device technically capable of individually selectable reproduction of television broadcasts, regardless of the method of reception (hereinafter referred to as a “television receiver”). Such a device shall be considered a television receiver even if the taxpayer adapts it for another purpose. The range of relevant devices now includes not only home radios, TVs and car radios, but virtually any phone, tablet or computer connected to the Internet.

The amendment maintains the principle of one payment per household regardless of how many devices its members possess.

Schools, the deaf, the blind, foreigners without permanent or long-term residence in Czechia and those whose income does not exceed 2.15 times the minimum living wage are exempt from fees. Associations and employers with a majority of workers with disabilities are also exempt from fees.

In addition, Czech Television may not place commercial communications on its website, with the exception of advertising aimed exclusively at promoting its own broadcasts and programmes and commercial communications for its own on-demand audiovisual media services.

Article 53 states that: “The time reserved for the announcement of sponsorship of programmes and shows during the broadcasting of a television broadcaster may

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not exceed 50 hours on the ČT 1 channel and 260 hours in total on all channels, per calendar year."

Zákon, kterým se mění zákon č.483/91 Sb, o České televizi ve znění pozdějších předpisů, zákon č. 484/91 Sb. o Českém rozhlasu ve znění pozdějších předpisů a související zákony

https://www.zakonyprolidi.cz/cs/2025-119

Act amending Act No. 483/91 Coll., on Czech Television, as amended, Act No. 484/91 Coll., on Czech Radio, as amended, and related acts.

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GERMANY

[DE] Commission for the Protection of Minors in the Media confirms that Sky Stream, WOW and O2 TV youth protection programmes meet legal requirements

Christina Etteldorf
Institute of European Media Law

At the end of March 2025, the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media – KJM) reviewed the youth protection programmes of the audiovisual streaming providers Sky Stream, WOW and O2 TV. Under the provisions of the German *Jugendmedienschutzstaatsvertrag* (state treaty on the protection of minors in the media – JMStV), it saw no reason to raise any serious objections and concluded that the *Freiwillige Selbstkontrolle Multimedia-Diensteanbieter* (voluntary self-monitoring body for multimedia service providers – FSM) had not exceeded its discretionary powers when assessing the programmes' suitability.

Article 5 of the JMStV requires broadcasters and telemedia providers to ensure that programmes that could potentially impair the development of children or young people can only be viewed by age groups for which they are suitable. Providers of telemedia, such as video-on-demand services, can meet this requirement by labelling their content with an age rating (from 6, 12, 16 or 18 years) that can be read by a "suitable youth protection programme". Just like the age ratings themselves, the suitability of such software for reading the ratings is checked by voluntary self-regulatory bodies such as the FSM. In this system of regulated self-regulation, the KJM, acting on behalf of the relevant German state media authority, only examines whether the self-regulatory body has exceeded its discretionary powers when making its assessment. In the present case, however, it raised no objections with regard to the youth protection programmes of Sky Stream, WOW and O2 TV, meaning that they are now deemed suitable.

The providers each use different models, but each offers the protection for children and young people required by the JMStV. Sky Stream allows customers to assign an age restriction to their account and specify whether the account should have access to content with an age rating of 0, 6, 12, 16 and 18. Age restrictions can be activated and content unlocked using a parental control PIN assigned during registration. In addition to the account age restriction, an app lock can be activated, requiring the PIN to be entered to access third-party apps.

WOW also allows the customer account to be age-restricted. Individual programmes that are not age-appropriate can then only be watched by entering a four-digit PIN that is set up during registration. The age restriction is deactivated by default and can be activated during registration or at any other time.

O2 TV enables its customers to create different user profiles in their account, to which different age restrictions can be assigned. An account-wide parental control

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PIN can also be stored in the account settings. Individual user profiles can be assigned a parental control PIN when they are first created or when they are used later. The parental control PIN is deactivated by default and the main user profile is not age-restricted.

Pressemitteilung der KJM (WOW und Sky Stream)

https://www.kjm-online.de/pressemitteilungen/wow-und-sky-stream-verwenden-geeignete-jugendschutzprogramme/

KJM press release (WOW and Sky Stream)

https://www.kjm-online.de/pressemitteilungen/wow-und-sky-stream-verwenden-geeignete-jugendschutzprogramme/

Pressemitteilung der KJM (O2 TV)

https://www.kjm-online.de/pressemitteilungen/o2-tv-verwendet-geeignetes-jugendschutzprogramm/

KJM press release (O2 TV)

https://www.kjm-online.de/pressemitteilungen/o2-tv-verwendet-geeignetes-jugendschutzprogramm/

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[DE] Media and digital policy in the planned coalition agreement between the CDU, CSU and SPD for the next federal government

Dr. Jörg Ukrow
Institute of European Media Law (EMR), Saarbrücken/Brussels

At the beginning of April, the CDU, CSU and SPD parties signed a coalition agreement that will form the basis of their government in the forthcoming 21st legislative period of the German Bundestag. The coalition partners of the new federal government believe that independent and diverse media ensure free public debate. Within the dual media system, they favour both pluralistic public service broadcasting and fair regulatory and refinancing conditions for private media. They are reluctant to impose additional advertising restrictions and are examining the introduction of a levy for online platforms that use media content, with the proceeds benefiting the relevant media location. They want to create legal certainty with regard to non-profit status in order to ensure nationwide coverage by journalistic services. According to the agreement, competition law must be further developed at all levels and dovetailed with federal state media concentration law, including with a view to scrutinising mergers between media companies and providers of media-related infrastructure. Cooperation in public service broadcasting will become the rule following current federal state reforms. The new federal government therefore wants to create an exemption from competition law. Cooperation between private media companies will also be made easier, while terrestrial broadcasting will be protected as critical infrastructure.

The coalition agreement considers the targeted influencing of elections as well as disinformation and fake news, which are now commonplace, to be serious threats to democracy, its institutions and social cohesion. It states that the deliberate dissemination of false factual claims is not covered by freedom of expression. The media regulator, which is independent of the state, must therefore be able to take action to combat manipulation of information as well as hatred and agitation on the basis of clear legal guidelines, while safeguarding freedom of opinion. Systematically deployed manipulative dissemination techniques such as the mass and coordinated use of bots and fake accounts must be prohibited.

The new German government believes that the further development of European media law must respect the subsidiarity principle. The Member States' ability to protect cultural and media diversity must be preserved in all EU legislation. The new coalition supports the establishment of a European media platform with the involvement of ARTE.

The protection of children and young people will also be strengthened thanks to improved interdisciplinary cooperation. Children and young people should be able to navigate the digital world safely. An expert commission will contribute to this by developing a strategy for the protection of children and young people in the digital world and supporting its implementation across different sectors and levels. Platform operators and providers will be held responsible for effective

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youth protection in the digital world, including through mandatory age verification procedures and safe default settings for children and young people on digital devices and services. According to the coalition agreement, a coherent legal framework between Europe, the federal government and the federal states in the area of youth protection in the media offers the opportunity to dismantle parallel structures and facilitate effective law enforcement. For this reason, the *Jugendschutzgesetz* (Youth Protection Act) will be designed coherently with the Digital Services Act (DSA) and the *Jugendmedienschutz-Staatsvertrag* (State Treaty on the Protection of Minors in the Media).

The coalition parties see digital policy as social policy. They want to strengthen digital skills in order to enable everyone to participate in society and make democracy more resilient to disinformation and manipulation. Democracy education, media and news skills will be strengthened in partnership with the federal states. According to the coalition agreement, confident, safe and critical use of digital tools and media makes society more resilient, democracy stronger and the economy more competitive. The new federal government therefore wants to launch a cross-age digital skills campaign to create innovative and sustainable offerings for all population groups. Measures will be taken to combat discrimination in the digital space and protect basic digital rights. People should be able to rely on a digitally sovereign state that is capable of taking action where required.

Koalitionsvertrag zwischen CDU, CSU und SPD 21. Legislaturperiode

https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag2025_bf.pdf

Coalition agreement between CDU, CSU and SPD, 21st legislative period

https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag2025_bf.pdf

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[DE] TV documentary on politician Uwe Barschel's death: those accused in suspicion-based reporting must be invited to comment

Sandra Schmitz-Berndt
Institute of European Media Law

On 20 March 2025, the *Oberlandesgericht Frankfurt am Main* (Frankfurt am Main Higher Regional Court – OLG) ruled in summary proceedings (case no. 16 U 42/24) that suspicion-based reporting is inadmissible unless the person accused of a criminal offence is given an opportunity to comment on the basis and context of the intended report.

Suspicion-based reporting is a form of journalistic reporting in which a possible criminal offence is reported on and the name of the alleged offender is mentioned. Although the scope and limitations of such reporting are not clearly defined, the courts have repeatedly taken a position on this and specific conditions under which it is permissible have been developed. Firstly, there needs to be evidence that the information is correct and high standards of journalistic due diligence must be met. The reporting must not contain any prejudgement or one-sided or distorted representation, and it must either be in the public interest or concern an incident of substantial importance. The final requirement is that the person concerned must be given the opportunity to comment on the facts of the case, unless this is impossible. In addition, it is essential to find an appropriate balance between the conflicting interests involved, i.e. the general public's interest in information, the media's freedom of expression and the interests of the alleged offender (Article 5(1) of the *Grundgesetz* (Basic Law – GG), Article 10 of the European Convention on Human Rights (ECHR)), in particular their general right to privacy (Article 2(1) in conjunction with Article 1(1) GG, Article 8(1) ECHR), the presumption of innocence (Article 6(2) ECHR) and the right to a fair trial (Article 2(1) GG in conjunction with Article 20(3) GG, Article 6(1) ECHR).

The Frankfurt OLG's decision was based on the following facts. In a series of documentaries, the defendants had analysed various theories and circumstantial evidence surrounding the death of Uwe Barschel, CDU politician and former Minister-President of Schleswig-Holstein, in 1987. The overall context gave the impression that the plaintiff, a former secret agent for German and foreign security authorities, had been involved in Barschel's death. The OLG confirmed the decision of the *Landgericht Frankfurt am Main* (Frankfurt am Main Regional Court – LG) of 23 February 2024 (case no. 2-03 O 654/23), which had previously granted the plaintiff's request that, among other things, certain statements should not be made. The court found that the plaintiff had not been given sufficient opportunity to comment. Even though the plaintiff had refused to give an interview or "any statement" during the design stage of the film, the defendants could not conclude from this that the plaintiff had also refrained from commenting on content of which he had not even been aware at a time when the film had not yet been finalised. It was irrelevant in this context that the plaintiff

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had not taken action against a Wikipedia article on “Uwe Barschel” in which his role had also been mentioned. Rather, the court pointed out that the publicly accessible report of the Lübeck public prosecutor’s office concerning the investigation against unknown persons into Barschel’s murder differed significantly from the report at issue.

The decision once again makes it clear that someone is only deemed to have been given an opportunity to comment if they have been sufficiently informed about the facts giving rise to suspicion and are therefore aware of the grounds on which they have been linked to a criminal offence. The simple offer of an interview during the design stage does not constitute an opportunity to comment if it is not yet clear at that time how the facts will be reported.

The decision cannot be contested.

Pressemitteilung zur Entscheidung des OLG Frankfurt am Main, Az. 16 U 42/24:

https://ordentliche-gerichtsbarkeit.hessen.de/presse/konkrete-anhoerung-ist-voraussetzung

Press release on the decision of the Frankfurt am Main Higher Regional Court, ref. 16 U 42/24

https://ordentliche-gerichtsbarkeit.hessen.de/presse/konkrete-anhoerung-ist-voraussetzung

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SPAIN

[ES] Bill on the protection of minors in digital environments

Maria Bustamante
-

On 25 March 2025, the Spanish government formally transmitted the bill on the protection of minors in digital environments to the *Cortes Generales* (Congress of Deputies and the Senate). This text, the main elements of which had already been announced when the preliminary draft was presented by the Council of Ministers in June 2024, marks a decisive development in the regulation of the digital space with regard to children and teenagers.

The bill forms part of an ambitious legislative initiative aimed at providing a legal framework for the use of digital services by minors, while guaranteeing the fundamental rights of young people online. Its transmission to parliament now paves the way for a crucial legislative debate.

In line with the objectives set out in the preliminary draft, the bill recognises the right of minors, in digital environments, to effective protection, reliable information and fair and effective access to technological tools and connections. It aims to guarantee respect for their privacy, honour and image, while encouraging the responsible use of technologies through the development of digital skills.

This is achieved by imposing specific obligations on manufacturers of digital devices, who will be required to incorporate free parental control systems that are accessible, easy to activate and tailored to users' different maturity and skill levels. The competent audiovisual authorities will be responsible for assessing the effectiveness of these systems and ensuring that they function properly.

The text also provides for specific regulation of digital services with high addictive potential, in particular so-called random reward mechanisms (loot boxes), by limiting their accessibility to minors. At the same time, it introduces educational measures to regulate the use of mobile devices in schools in coordination with the rules applicable in each autonomous community.

As far as reforms are concerned, the bill substantially amends various provisions of the Spanish Criminal Code to incorporate emerging forms of crime linked to digital technologies. It introduces Article 173 bis, which criminalises the non-consensual dissemination of AI-generated sexual images that undermine moral integrity (deepfakes), with penalties of up to two years' imprisonment. Other offences are defined, such as online identity theft committed by adults in order to gain the trust of minors for the purposes of capturing sexual images (grooming), and unauthorised communication between convicted offenders and victims in a

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digital environment, extending no-contact orders to the online world.

In addition to punitive measures, the law introduces preventive obligations, notably through the development of a national strategy for the protection of children and adolescents in digital environments. This strategy, to be implemented by the public authorities, includes measures such as the creation of a school for parents dedicated to online educational support, the development of public digital culture laboratories and a research plan on the effects of technologies on minors. It was drafted with significant input from children and teenagers via the National Council for Child Participation, which gives it an unprecedented participatory dimension.

The bill also amends the general law on audiovisual communication. Major audiovisual content providers and influencers with large audiences are required to put in place reporting mechanisms for inappropriate content aimed at minors, provide clear information on potentially harmful content, deploy effective age verification systems and separate pornographic or violent content from their other content.

This bill, which is now in the parliamentary deliberation phase, is an essential pillar in the construction of a coherent legal framework for the protection of minors in the digital age. It includes measures to hold technological stakeholders accountable, updates criminal legislation to deal with the misuse of AI, and provides for an integrated public policy on education, health and digital risk prevention.

The legislation is expected to be adopted in the coming months.

Proyecto de Ley Orgánica para la protección de las personas menores de edad en los entornos digitales

https://www.congreso.es/public_oficiales/L15/CONG/BOCG/A/BOCG-15-A-52-1.PDF

Bill on the protection of minors in digital environments

https://www.congreso.es/public_oficiales/L15/CONG/BOCG/A/BOCG-15-A-52-1.PDF

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FRANCE

[FR] ARCOM issues formal notice to two websites accessible to minors for failing to take age verification measures

Amélie Blocman
Légipresse

On 6 March this year, the *Autorité de régulation de la communication audiovisuelle et numérique* (French audiovisual regulator – ARCOM) sent letters of observation to the providers of five services that allowed minors to access pornographic content without age verification. As stipulated in Article 10-1 of the *Loi pour la confiance en l'économie numérique* (Law on confidence in the digital economy), as amended by the *Loi visant à sécuriser et réguler l'espace numérique* (Law aiming to secure and regulate the digital space – SREN) of 21 May 2024, this was the first stage prior to any request for a blocking or delisting order, or even a financial penalty.

Ten days later, since two of the service providers concerned (Pornovore and Chaturbate) had failed to set up an age verification system, ARCOM gave them formal notice to comply with their obligations. In accordance with the law, they had a further 15 days to do so. If, at the end of this period, an age verification system had still not been put in place, ARCOM would be entitled to request that the sites be blocked and delisted, or impose financial penalties.

Meanwhile, ARCOM found that the three other services whose providers had received letters of observation had implemented an age verification solution. It contacted the sites concerned to ensure that the solutions put in place were effective and decided not to issue them with a formal notice.

On the same day, ARCOM also requested the blocking of another pornographic site that was allowing minors to access its content and had failed to identify its provider or postal address. The previous day, the Paris Administrative Court had confirmed that these new blocking measures imposed by ARCOM were compatible with European law.

From 7 June 2025, ARCOM will also have jurisdiction to verify the compliance of a number of pornographic platforms established in other EU member states.

Convinced that a fully effective European framework is the appropriate level of regulation in the long term, ARCOM has called on the European Commission to quickly adopt its guidelines on the protection of minors online.

Décisions n° 2025-212 et 2025-213 du 16 avril 2025

https://www.arcom.fr/se-documenter/espace-juridique/decisions/decision-du-16-avril-2025-mettant-en-demeure-la-societe-multi-media-llc-en-ce-qui-concerne-le-service-chaturbate

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Decisions 2025-212 and 2025-213 of 16 April 2025

https://www.arcom.fr/se-documenter/espace-juridique/decisions/decision-du-16-avril-2025-mettant-en-demeure-la-societe-multi-media-llc-en-ce-qui-concerne-le-service-chaturbate

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[FR] Arcom gives Eutelsat formal notice to stop broadcasting two Russian channels

Amélie Blocman
Légipresse

In a decision dated 19 March 2025, the *Autorité de régulation de la communication audiovisuelle et numérique* (French audiovisual regulator – ARCOM) served formal notice on Eutelsat to stop broadcasting two Russian channels, STS and Kanal 5. These channels are among the 28 Russian media undertakings controlled by the Russian company JSC National Media Group, which has seen its financial resources frozen pursuant to Article 2 of the EU Council Regulation of 17 March 2014, resulting in a ban on transmission of these channels. In so doing, ARCOM is, for the first time, implementing the new powers conferred on it by the *Loi visant à sécuriser et réguler l'espace numérique* (Law aiming to secure and regulate the digital space) of 21 May 2024. This law added the following to Article 42 of the Law of 30 September 1986: “Publishers and distributors of audiovisual communication services, satellite network operators and the technical service providers they use may be given formal notice to comply with the obligations imposed by provisions adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union relating to the prohibition of broadcasting of audiovisual communication service content”.

Since the beginning of the conflict in Ukraine, ARCOM has, in application of the Law of 30 September 1986, stopped the transmission of Russian channels NTV Mir, Rossiya 1, Perviy Kanal and NTV, whose programmes devoted to the conflict contained incitement to hatred and violence, as well as breaches of honest reporting standards.

ARCOM also indicated that it had ensured that the operators concerned complied with current European legislation, which included the possibility of sanctions against Russian media. On this basis, it had banned transmission of the RT France channel as long ago as 2 March 2022.

Décision (Arcom) n° 2025-103 du 19 mars 2025 mettant en demeure la société Eutelsat SA

https://www.legifrance.gouv.fr/download/pdf?id=fu7z57ZGozRKmgwDZSzX1jQu1ZKoObXiCH3Q5s-Yfx8=

ARCOM decision no. 2025-103 of 19 March 2025 giving formal notice to Eutelsat SA

https://www.legifrance.gouv.fr/download/pdf?id=fu7z57ZGozRKmgwDZSzX1jQu1ZKoObXiCH3Q5s-Yfx8=

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[FR] Compatibility with European law of ARCOM measures to block a pornographic website

Amélie Blocman
Légipresse

In accordance with the procedure provided for in section V of Article 10-1 of the Law of 21 June 2004 instituted by the Law of 21 May 2024, an internet service provider sought the annulment of a decision of 6 March 2025, in which the ARCOM president, pursuant to section III of Article 10-1, had notified it of a web address to which it had been ordered to block access within 48 hours for a period of two years, and asked it to redirect users wishing to access it to an ARCOM information page. In the alternative, the company asked the court to stay the proceedings and to refer eight questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling.

In the case at hand, on 12 February 2025, a sworn ARCOM official had found that access to pornographic content broadcast on the Camschat service at the address in question had not been conditional on verification of the user's age, and that this had constituted a breach of Article 227-24 of the Criminal Code.

Asked to rule on the compatibility with European law of the provisions of Article 10-1 of the Law of 21 June 2004, created by the Law of 21 May 2024, the Paris administrative court pointed out that the blocking measures imposed by ARCOM on a provider of domain name resolution services, aimed at preventing access to pornographic content without age verification and based on Article 10-1 of the Law of 21 June 2004 and Article 227-24 of the Criminal Code, did not constitute sanctions but administrative police measures.

In this case, the blocking measure had been notified to the European Commission in accordance with Directive 2015/1535. The Court found that it was not incompatible with Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act – DSA), which fully harmonised rules on the protection of minors applicable to providers of online platforms normally accessible to minors (defined in particular as those for which no age limits are set) and "very large online platforms" (with more than 45 million active recipients). As regards other platforms which did not fall into these two categories, as in the case of Camschat, the court stated that it was left to the Member States to lay down the strictest appropriate access control measures, in particular by setting up systems for verifying the age of users of platforms under their jurisdiction. The applicant had no grounds for claiming that the provisions on which the contested blocking order was based infringed the DSA.

In addition, the difference in treatment between providers established in France or outside the European Union and those established in another Member State was deemed justified by Directive 2000/31/EC.

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Lastly, the blocking measures did not infringe the freedom to conduct a business or the freedom of expression, in that they had the legitimate objective of preventing minors accessing online pornographic content by any means other than a simple declaration of the user's age, in order to guarantee the protection of the best interests of the child enshrined in Article 24 of the EU Charter of Fundamental Rights.

The disputed blocking mechanism was therefore deemed appropriate, necessary and proportionate to the objective pursued. The application was dismissed.

TA Paris (5e sect. 4e ch.), 15 avril 2025, n° 2506972, Société Cloudflare

https://paris.tribunal-administratif.fr/decisions-de-justice/dernieres-decisions/blocage-d-un-site-pornographique-pour-empecher-l-acces-des-mineurs-a-son-contenu

Paris administrative court (5th section, 4th chamber), 15 April 2025, no. 2506972, Société Cloudflare

https://paris.tribunal-administratif.fr/decisions-de-justice/dernieres-decisions/blocage-d-un-site-pornographique-pour-empecher-l-acces-des-mineurs-a-son-contenu

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UNITED KINGDOM

[GB] High Court overturns Ofcom’s decisions on breach of due impartiality rules

Julian Wilkins
Wordley Partnership

In *R (GB News Ltd) v. Ofcom* [2025] EWHC 460 (Admin), High Court judge Collins Rice allowed GB News judicial review by quashing two decisions reached by Ofcom that had assessed the broadcaster to have breached Rules 5.1 and 5.3 of the Broadcasting Code.

GB News is a UK free-to-air TV and radio news channel. One of GB News' distinct characteristics is that it hires prominent politicians to host current affairs programmes including former Conservative government minister, now Sir Jacob Rees-Mogg (Rees-Mogg).

Previously, Ofcom had assessed two broadcasts of *Jacob Rees-Mogg’s State of the Nation*, hosted by Rees-Mogg (then a sitting MP). In the first, Rees-Mogg read a short announcement of the verdict in the civil rape trial of Donald Trump; in the second, Rees-Mogg conducted a short live interview with a correspondent obtaining an update about a series of murders in Nottingham. Ofcom found breaches of both Rules 5.1 and 5.3 on the basis that Rees-Mogg, as a politician, had acted as a newsreader in a news programme contrary to Rule 5.3, and that because Rees-Mogg was a politician there was an inherent breach of the requirement in Rule 5.1 that news be reported with due impartiality.

Ofcom’s Broadcasting Code requires that news, in whatever form, must be presented with due impartiality. Further, a politician cannot be a newsreader, news interviewer or news reporter unless, exceptionally, there is editorial justification.

Rule 5.1 says: “News, in whatever form, must be ... presented with due impartiality”, whilst Rule 5.3 states that “No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.” Section 319 of the Communications Act 2003 specifically requires that “news is presented with due impartiality”.

High Court judge Collins Rice J held that Ofcom had erred in its interpretation of the code, contrary to the language of the rules. Rees-Mogg’s programme was a current affairs programme and not a news programme, and Ofcom was not entitled to treat a programme as being both a news and a current affairs programme; there was, accordingly, no breach of Rule 5.3. The judge’s decision included an analysis as to what constituted a news programme compared to

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current affairs.

Furthermore, although a person reading or reporting news being a politician was relevant to whether it had been reported with due impartiality, Ofcom was wrong in law to find that that was sufficient in and of itself; due impartiality required, under Rule 5.1, an assessment of the full context. The judge did not consider a politician reading a particular news story would of itself constitute a breach of due impartiality rules. Whether there was a breach of due impartiality rules, would have to be looked at on a case-by-case basis by the regulator and in the full context of the facts.

The judge further observed that section 319 (1) of the Broadcasting Act placed a duty on Ofcom not just to set, but from time to time to review and revise the Broadcasting Code.

Subsequent to the judgment, Ofcom released a note to broadcasters saying their decisions against the Jacob Rees-Mogg programme dated 18 March 2024 would be removed from GB News' compliance record as well as from its Broadcast and On-Demand Bulletin albeit adding a footnote to the relevant webpage explaining that the decisions were withdrawn but can still be accessed for information.

Also, Ofcom is withdrawing six open investigations involving politicians acting as presenters being investigated under Rules 5.1 and 5.3. Further, Ofcom will now embark upon a review of Rule 5.3 and consult on proposed changes to restrict politicians from presenting any type of programme, and for the moment broadcasters should rely upon Interim Guidance entitled "Note to Broadcasters – Politicians as newsreaders, interviewers and reporters".

R (GB News Ltd) v. Ofcom [2025] EWHC 460 (Admin)

https://www.judiciary.uk/judgments/gb-news-v-ofcom/

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GREECE

[GR] Decision No. 5/2025 of the National Council of Radio and Television (NCRT) on the protection of personality rights of a public figure

Elisabeth Anastasiadou

The wiretapping scandal, also known as “Predatorgate”, or the “Greek Watergate”, concerns the surveillance of Greek journalists, politicians, military personnel, businessmen, judicial and state officials, etc. by the National Intelligence Service (NIS) or by means of the spy software Predator, from 2020 onwards. In the meantime, from 2019, the NIS was under the direct supervision and responsibility of the nephew and general secretary of the Greek Prime Minister, who is also the complainant in the recent National Council for Radio and Television (NCRT) decision, mentioned in this article. In May 2023, the European Parliament adopted the final report of the Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware (PEGA), which concluded that the spyware was used by Greece's top political leadership and called on Greece to take ten measures, including calling on Europol to participate in the investigation of the case.

Decision No. 5/2025 of the NCRT is part of this case of major public interest, concerning this recent wiretapping scandal in Greece. The NCRT found that a private television station (Alter Ego Media, owner of the TV channel "Mega") had violated broadcasting legislation by failing to protect the personality rights of a public figure mentioned in specific broadcasts. As a result, the NCRT imposed a fine of EUR 90 000 on the television station.

The main argument put forward in the NCRT’s decision was that the television station's journalists did not verify the accuracy of the information transmitted, resulting in reputational harm. In particular, Decision No. 5/2025 of the NCRT emphasises that journalists must conduct exhaustive research in order to substantiate the truth of the information presented, even when it is based on reliable sources (newspaper publications and news websites) and even when journalists maintain a professional distance from the subject of their reporting. A minority opinion was also expressed in this decision, according to which, in cases where television journalists simply retransmit information based on newspaper articles, they must act in good faith when presenting the news.

The majority opinion of Decision No. 5/2025 of the NCRT, however, diverges from Decision No. 2833/2024 of the Athens High Court of First Instance, concerning the same issue. The court had previously held that journalists are to meet their obligation to truthfulness by exercising appropriate care and honesty in reporting, but are not required to prove the objective truth of every fact. The court also stressed that context, public interest, and the journalist’s intention must be

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considered, and that a certain degree of provocation or exaggeration may be justified in news reporting.

This regulatory decision thus sets a higher standard for journalistic verification.

Α Π Ο Φ Α Σ Η 5//2025

http://repository-esr.ekt.gr/esr/bitstream/20.500.12039/18915/1/5-2025.pdf

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IRELAND

[IE] TikTok sanctioned by Irish Data Protection Commission

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On 2 May 2025, the Irish Data Protection Commission released a decision finding that TikTok infringed the General Data Protection Regulation (GDPR) in relation to the transfer of personal data of its users in the European Economic Area (EEA) to China. The Irish Data Protection Commission concluded that the transfers violated the GDPR's requirements for cross-border data transfers and its transparency obligation.

Personal data may be transferred to countries outside the EEA if those countries ensure an adequate level of data protection, either through a European Commission "adequacy decision" or by implementing appropriate safeguards such as Standard Contractual Clauses (SCCs) (Articles 45 and 46 GDPR). Since China does not benefit from an adequacy decision, TikTok was required to implement and demonstrate effective safeguards to ensure that EEA users' data would be protected to a standard essentially equivalent to that within the EU.

According to the Irish Data Protection Commission, TikTok failed to demonstrate that the level of protection granted to users when transferring their data was essentially equivalent to that guaranteed within the EU.

In addition, TikTok's EEA privacy policy does not respect the GDPR's transparency requirement. The EEA privacy policy did not provide users with adequate information on the data transfers to a third country (Article 13(1)(f) GDPR).

The Irish Data Protection Commission ordered TikTok to suspend its data transfers and to bring its processing operations into compliance with the GDPR within a period of 6 months. For the two infringements, the Irish Data Protection Commission imposed an administrative fine totalling €530 million.

Irish Data Protection Commission, Press release, "Irish Data Protection Commission fines TikTok €530 million and orders corrective measures following inquiry into transfers of EEA user data to China"

https://www.dataprotection.ie/en/news-media/latest-news/irish-data-protection-commission-fines-tiktok-eu530-million-and-orders-corrective-measures-following#_ftn1

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and

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repealing Directive 95/46/EC (General Data Protection Regulation)

https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng

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ITALY

[IT] AGCOM Approves Age Verification Regulation for Online Platforms

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AGCOM, the Italian Communications Authority and Digital Services Coordinator, has officially approved the regulation on age verification for access to online platforms providing adult content. The measure aims to ensure minors are effectively protected from the dangers of the internet.

The new regulation, annexed to Resolution No. 96/25/CONS, sets out the compulsory procedures for video-sharing platforms and websites offering adult content in Italy to verify users' age (so-called *age assurance* or *age verification*). This initiative enforces Article 13-bis of Legislative Decree No. 123 of September 15, 2023, converted, following amendments, into Law No. 159 of November 13, 2023 (known as the "Caivano Decree").

The regulation was developed following a public consultation that involved 13 stakeholders, including institutions, industry, consumer associations, and major video-sharing platforms. It also received the favourable opinion of the Italian Data Protection Authority (see IRIS 2024-4:1/6 and 2024-9:1/10).

Since the regulation qualifies as a technical rule under Directive (EU) 2015/1535, it was notified to the European Commission in October. The Commission provided a detailed opinion, which AGCOM considered in finalising the regulation.

All video-sharing platforms and websites disseminating pornographic content in Italy are now required to comply with these provisions. In cases of non-compliance, AGCOM is authorised to adopt all necessary measures, including blocking access to the website or platform until compliance is ensured.

The regulation defines an age verification system that involves certified independent third parties responsible for providing proof of age. The process is structured around two logically distinct stages—identification and authentication of the individual—for each session of access to regulated services (e.g., adult content websites or platforms).

For age verification systems that rely on apps installed on the user's device, an application is made available to generate and certify the "proof of age" (e.g., a digital identity wallet app or identity management app). This proof can be used for any purpose requiring identification. Users can complete the identification process and provide the certified proof of age directly through the installed app when visiting a website or platform.

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This system ensures a level of security proportional to the risk involved and adheres to the principle of data minimisation. A “double anonymisation” mechanism prevents the age verification provider from knowing which service the proof is being used for, and ensures that the proof submitted to the website or platform contains no identifiable user data.

AGCOM has adopted a technologically neutral approach in designing the age assurance framework, while establishing key principles and requirements that all systems must meet. Furthermore, the age verification systems must comply with upcoming guidelines to be issued by the European Commission under the Digital Services Act (DSA), particularly Article 28. As such, the regulation may be updated or revised to align with future EU requirements.

Approvate le regole per la verifica della maggiore età degli utenti online

https://www.agcom.it/comunicazione/comunicati-stampa/comunicato-stampa-29

Rules approved for verifying the age of online users

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[IT] AGCOM grants trusted flagger status to an organization specialised in the protection of minors

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The pool of entities recognised as trusted flaggers under Article 22 of the Digital Services Act (DSA) continues to expand. These entities are designated to support online platforms in identifying and countering the dissemination of illegal content, by virtue of their specific expertise and capabilities.

In its capacity as the Digital Services Coordinator for Italy, AGCOM (the Italian Communications Authority) officially granted trusted flagger status on 8 April to the S.O.S Il Telefono Azzurro Foundation ETS (Telefono Azzurro Foundation), with particular reference to the 0–18 age group. The designation covers various areas of concern, including violations of data protection and privacy, non-consensual sharing of material, cyberbullying and online harassment, sexually explicit or pornographic content, breaches of child protection laws, incitement to self-harm, and criminal or violent acts.

The Telefono Azzurro Foundation is a non-profit organisation committed to safeguarding children and adolescents from abuse and violence, both in the physical world and in the digital environment.

Through Resolution No. 91/25/CONS, AGCOM awarded this status for a three-year term, following a comprehensive assessment of compliance with the criteria set out in Article 22(2) of the DSA. These include: (a) possessing specialist knowledge and competence in detecting, identifying, and reporting illegal content; (b) maintaining independence from online platform providers; and (c) carrying out reporting activities diligently, accurately, and objectively.

The Telefono Azzurro Foundation demonstrated that it meets all these criteria, showing its capacity to act independently and effectively in identifying and notifying illegal content in a manner aligned with the obligations of a trusted flagger.

The trusted flagger role is pivotal to the implementation of the DSA across EU member states. It enables the activation of the notice-and-action mechanism laid out in Article 16 of the regulation, which mandates online platforms to handle such notices with priority and without undue delay.

Trusted flaggers are also required to submit and publicly disclose an annual report to AGCOM. This report must be clear, detailed, and include a description of the procedures used to ensure the ongoing independence of the organisation.

AGCOM retains the authority to review, either *ex officio* or upon notification, whether the organisation continues to meet the necessary requirements. This review process may also take into account the guidelines issued by the European Commission pursuant to Article 22(8) of the DSA.

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Delibera 91/25/CONS - Riconoscimento della qualifica di segnalatore attendibile alla Fondazione S.O.S. Il Telefono Azzurro ETS ai sensi dell'art. 22 del Regolamento sui servizi digitali (DSA)

https://www.agcom.it/provvedimenti/delibera-91-25-cons

Resolution 91/25/CONS – Recognition of the status of trusted flagger to Fondazione S.O.S. Il Telefono Azzurro ETS pursuant to Article 22 of the Digital Services Act (DSA)

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LUXEMBOURG

[LU] Entry into force of law implementing DSA

Amélie Lacourt
European Audiovisual Observatory

The Digital Services Act (DSA), which aims at regulating digital services and combating illegal content online, has been fully applicable across Europe since 17 February 2024. In Luxembourg, Bill No. 8309 on the implementation of the DSA was adopted by the Chamber of Deputies (*Chambre des Députés*) on 2 April 2025, and the law entered into force on 11 April 2025.

According to Article 2 of the law, the Luxembourg Competition Authority was officially designated as the competent authority for the application of the DSA, thereby assuming the role of Digital Services Coordinator (DSC). It is responsible for monitoring, enforcing and coordinating the implementation of the DSA in Luxembourg, in cooperation with other national authorities. Under Chapter 3, the Competition Authority has investigative powers (requests for information, inspections) and sanctioning powers, which can go up to 6% of a platform's global turnover in the event of non-compliance with the DSA (Article 15 of the law). The authority set up, in collaboration with the *Centre des technologies de l'information de l'État* (CTIE), a dedicated complaint service accessible via MyGuichet.lu for users.

The Luxembourg DSC will cooperate with institutions such as the CNPD on data protection, ALIA on audiovisual content and ILNAS on dangerous products. It is worth noting that, on 11 March 2025, the Competition Authority and seven other authorities concluded a cooperation agreement to ensure the uniform and consistent application of the DSA in Luxembourg.

Approximately 250 online platforms established in Luxembourg are affected by the DSA. The obligations include:

- the possibility for users to report illegal content

- the prohibition of targeted advertising to minors

- greater transparency on recommendation and advertising systems

- the rapid removal of illegal content (hate speech, sale of dangerous products, terrorist content, etc.).

Very large platforms (more than 45 million users in the EU) remain under the direct supervision of the European Commission, with the assistance of the Luxembourg Competition Authority for investigations concerning them. To date, the European Commission has identified and designated 25 very large platforms.

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The national implementation of the DSA has now been finalised in Luxembourg. The legal framework has been fully in force since April 2025.

Loi du 4 avril 2025 portant mise en œuvre du Règlement (UE) 2022/2065 du Parlement européen et du Conseil du 19 octobre 2022 relatif à un marché unique des services numériques et modifiant la directive 2000/31/CE (Règlement sur les services numériques) et portant modification de : - la loi modifiée du 14 août 2000 sur le commerce électronique - la loi modifiée du 30 novembre 2022 relative à la concurrence

https://legilux.public.lu/eli/etat/leg/loi/2025/04/04/a125/jo

Law of 4 April 2025 implementing Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Regulation) and amending: - the amended Act of 14 August 2000 on electronic commerce - the amended Act of 30 November 2022 on competition

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NETHERLANDS

[NL] Bill implementing the EU Anti-SLAPP Directive submitted to parliament

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On 15 April 2025, the Dutch Secretary of State for Legal Protection (*Staatssecretaris Rechtsbescherming*) submitted an important bill to the House of Representatives (*Tweede Kamer*), seeking to implement the 2024 EU Directive on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (strategic lawsuits against public participation – SLAPPs), known as the Anti-SLAPP Directive (see IRIS 2024-3/5 and IRIS 2022-5/6). The purpose of the directive is to provide safeguards against SLAPPs, which are manifestly unfounded claims or abusive court proceedings brought against natural and legal persons on account of their engagement in public participation. Notably, the directive only applies to "civil matters with cross-border implications", although an accompanying European Commission recommendation states that member states "should aim to include in their national laws similar safeguards for domestic cases", and should ensure their legal frameworks governing "criminal proceedings" provide for the necessary safeguards to address SLAPPs. Member states are required to implement the directive by May 2026.

The bill, which was originallyh published in October 2024, was open for public consulation (see IRIS 2024-10/8), and having considered the public consultation submissions, the Secretary of State for Legal Protection has now submitted the implementing bill to the lower house of parliament (House of Representatives). Crucially, while the Anti-SLAPP Directive has over 21 provisions with various rules on definitions, procedural safeguards, accelerated treatment of applications, and support for defendants, the 2025 implementing bill is two pages long, and contains two articles.

In this regard, the bill amends the Code of Civil Procedure, and inserts a new Article 224a into the code. It seeks to implement Article 10 of the directive on security for costs, and the Article 224a amendment to the code provides that in court proceedings brought against natural or legal persons on account of their engagement in public participation, the court may, at the request of the other party, oblige the person instituting the action to "provide security for the costs of the proceedings and damages" under Articles 10 and 14 of the Anti-SLAPP Directive which they could be ordered to pay. The provision does not apply if it would "hinder effective access to justice for the person from whom security is sought".

Crucially, the Secretary of State, and the explanatory memorandum to the bill, stated that "with the exception of the measure of security for legal costs and damages" included in Article 10 of the directive, "Dutch (procedural) law already

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provides for the measures prescribed by the Directive"; and therefore, "no separate implementation is required for this". As such, the bill contains no further implementing provisions. The Secretary of State said that the bill will now proceed through the House of Representatives, and then the Senate, and that the directive must be converted into national legislation by 7 May 2026 at the latest.

Wijziging van het Wetboek van Burgerlijke Rechtsvordering ter implementatie van Richtlijn (EU) 2024/1069 betreffende bescherming van bij publieke participatie betrokken personen tegen kennelijk ongegronde vorderingen of misbruik van procesrecht ('strategische rechtszaken tegen publieke participatie'), 15 april 2025

https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstelldetails&qry=wetsvoorstel:36731#wetgevingsproces

Amendment to the Code of Civil Procedure to implement Directive (EU) 2024/1069 on the protection of persons involved in public participation against manifestly unfounded claims or abusive litigation ("strategic litigation against public participation"), 15 April 2025

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[NL] Court refuses to order injunction over broadcaster's news programme

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On 17 April 2025, the Rechtbank Amsterdam (District Court of Amsterdam) delivered a significant ruling on broadcast journalism reporting on serious allegations against commercial companies. Notably, the Court refused to order a "publication ban" against a well-known Dutch news programme reporting on serious fraud allegations against an employment agency, holding that such a journalistic programme must enjoy wide freedom of expression to address matters of public interest, even where the allegations would have very damaging consequences for the commercial company.

The case arose on 27 February 2025, when the well-known Dutch news programme, RTL Nieuws, informed a Dutch-based employment agency that it intended to broadcast a programme on 1 March 2025, reporting on serious allegations against the company. The employment agency connected self-employed healthcare workers with major healthcare providers via secondment, and RTL Nieuws intended to report that an investigation by the Dutch Health and Youth Care Inspectorate had shown that the agency had allowed self-employed persons to work in healthcare, with numerous self-employed persons "not having the correct diploma" qualification, and some had a "forged" diploma. The employment agency replied to the broadcaster, saying the response period was "very short", and it could only respond by 3 March 2025. On 1 March, RTL Nieuws broadcast a news item on the employment agency, reporting on the allegations against the company, and published an online article, headlined "Employment agency sent self-employed people with false diplomas into healthcare".

Following the broadcast, the employment agency initiated legal proceedings against RTL Nieuws, seeking an order prohibiting the re-broadcasting of the news item, removal of the online report; and an order for a correction. In its judgment, the Court first set out that the requested "publication ban" and rectification were intended to "restrict" the freedom of expression of RTL Nieuws, which is protected by Article 10 of the European Convention on Human Rights. However, the employment agency also enjoyed a right to protection of reputation under Article 8, and as such, the Court had to balance both these rights. Crucially, the Court emphasised the "importance" of RTL Nieuws being able to express itself "critically, informatively and opinionatedly" on matters of public interest, and was entitled to a "wide" freedom of expression on matters of public interest. However, journalists must ensure "accurate and reliable reporting", in particular when serious "accusations are made".

In this regard, the Court noted that the RTL Nieuws report was on a serious matter of public interest; but the Court also recognised the reporting was "very damaging" for the employment agency. And given the seriousness of the (expected) consequences for employment, the Court held RTL Nieuws's

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accusations must have a “sufficient factual basis”. Importantly, it had not been publicly stated by the authorities that the employment agency had been the company targeted by the Health and Youth Care Inspectorate investigation. Crucially, the Court held that RTL Nieuws had “sufficiently” explained from which “factual material” it derived these accusations, including by establishing that the police had searched the company’s offices in December 2024; and RTL Nieuws had an “off-the-record” comment from an employee of the Health and Youth Care Inspectorate. As such, the Court concluded that RTL Nieuws had not acted unlawfully in publishing the allegations against the company, refused to order the publication ban and rectification; while ordering the company to pay the costs of the proceedings, including those of RTL Nieuws.

Rechtbank Amsterdam, ECLI:NL:RBAMS:2025:2543, 17 april 2025

https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2025:2543

District Court of Amsterdam, ECLI:NL:RBAMS:2025:2543, 17 April 2025

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PORTUGAL

[PT] New rules for more transparency in branded content

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The Portuguese media regulatory authority (ERC) is calling for the clear identification of branded and sponsored content published in journalistic outlets. In a recent directive, the regulator recommended that news producers ensure that journalistic content is presented to audiences in a way that is clearly distinct from advertising/commercial content. This comes after the media regulator has issued, in recent years, several decisions condemning newspapers and other outlets for allowing confusion between these two types of content.

According to the ERC, designations such as “partnerships”, “collaborations”, and “supported by” may not be accurately interpreted by the audience, because they do not allow the public to understand sufficiently what the nature of the content is. Thus, the ERC has established that the use of such terms must always be supplemented with additional information. Also, when a “partnership” or a “collaboration” between the media outlet and third parties gives rise to journalistic content, this must have editorial relevance and explicitly contain this reference.

The directive by the ERC also states that newsroom councils – or journalists when those do not exist – should be consulted in cases of potential conflicts of interest. This should be guaranteed under the constitutional right of participation in editorial guidance guaranteed to journalists. Also, the ERC establishes that editorial directors must refrain, under any circumstances, from signing advertising/commercial contracts.

The ERC recognises the difficult economic and financial context in which media companies operate, and also the need to diversify the streams of revenue. Moreover, so-called native advertising, i.e. advertising that has appropriated the structure of journalistic work, has posed new challenges to the integrity of journalism. In this framework, the need to protect editorial independence and autonomy is enhanced, thus justifying the directive published by the ERC.

The regulatory authority also established that the advertising/commercial nature of the content must be immediately recognised by the public. This means that media companies should use designations that clearly indicate the presence of commercial content, right at the beginning of the piece, in which the advertiser is also identified. Moreover, commercial content must also be different from journalistic content from a graphic, visual, or acoustic perspective. Any support from commercial entities for journalistic work, such as travel and accommodation, should be disclosed to the public.

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Media companies are also advised to create specific rules to ensure the separation between journalistic content and advertising/commercial content, which may be included in internal codes of conduct, thus making clear to all journalists the rules they must abide by.

DIRETIVA 2025/1 Separação entre conteúdos jornalísticos e conteúdos publicitários/ comerciais

https://www.erc.pt/document.php?id=MTNjMmYyMzYtMGRiNi00NTI0LWIxOTUtNWU3NDkwZTdkMmZl

DIRECTIVE 2025/1 Separation between journalistic content and advertising/commercial content

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