



Advocate General Saugmandsgaard Øe: the Audiovisual Media Services Directive does not preclude the adoption by a Member State of a measure imposing an obligation to broadcast or retransmit a foreign television channel only in packages available for an additional fee, in order to restrict the dissemination by that channel to the public of that State of information inciting hatred

Such a measure is also compatible with the freedom to provide services laid down in Article 56 of the Treaty on the Functioning of the European Union

Baltic Media Alliance, a company registered in the UK, broadcasts the television channel NTV Mir Lithuania, a channel intended exclusively for the Lithuanian public and showing mainly Russian-language programmes. On 18 May 2016 the Radio and Television Commission of Lithuania ('the RTCL') adopted, in accordance with Lithuanian legislation, a measure imposing on operators broadcasting television channels via cable or internet to Lithuanian consumers an obligation, for a period of 12 months, to no longer broadcast the television channel NTV Mir Lithuania other than as part of packages available for an additional fee. The decision was based on the fact that a programme broadcast on 15 April 2016 on the channel in question contained information inciting hostility to and hatred of the Baltic States on grounds of nationality.

In today's Opinion, Advocate General Henrik Saugmandsgaard Øe is of the view that the Audiovisual Media Services Directive,¹ which requires Member States to ensure freedom of reception and not to restrict retransmissions on their territory of television broadcasts from other Member States for reasons such as incitement to hatred, does not prevent the Republic of Lithuania from adopting such a measure.

According to the Advocate General, the directive does not prevent the receiving Member State from controlling, by certain specific arrangements, the distribution of television programmes originating from other Member States. The receiving Member State can thus require television channel distributors, on public interest grounds, to organise the services offered by them in such a way that certain channels are included only in specific packages. Such measures do not hinder the retransmission or reception as such of the channels concerned. Those channels can, if those rules are observed, still be broadcast and consumers can legally view those channels, provided that they subscribe to the appropriate package.

Moreover, the Advocate General is of the opinion that the measure adopted by the RTCL against the television channel NTV Mir Lithuania is compatible with the freedom to provide services enshrined in Article 56 of the Treaty on the Functioning of the European Union. The measure is justified and proportionate. In that regard, the Advocate General observes that the Republic of Lithuania has, by means of a reasonable measure, legitimately sought to protect the Lithuanian information area from Russian propaganda in the context of the information war to which the Baltic States are subject.

¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (OJ 2010 L 95, p. 1).

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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