



A Member State may, for reasons of public policy such as combating incitement to hatred, impose a temporary obligation to broadcast or retransmit a television channel from another Member State only in pay-to-view packages

The rules on the distribution of such a channel must not, however, prevent the retransmission as such of the channel

Baltic Media Alliance Ltd (BMA), a company registered in the UK, broadcasts the television channel NTV Mir Lithuania, a channel directed to the Lithuanian public and showing mainly Russian-language programmes. On 18 May 2016 the Lithuanian Radio and Television Commission (LRTK) adopted, in accordance with Lithuanian legislation, a measure imposing on operators broadcasting television channels to Lithuanian consumers via cable or the internet an obligation, for a period of 12 months, no longer to broadcast the television channel NTV Mir Lithuania other than in pay-to-view packages. 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.

BMA brought an action before the Vilniaus apygardos administracinis teismas (Regional Administrative Court, Vilnius, Lithuania) seeking the annulment of the decision of 18 May 2016, arguing in particular that the decision was taken in breach of the Audiovisual Media Services Directive,¹ which requires the Member States to ensure freedom of reception and not to restrict the retransmission in their territory of television broadcasts from other Member States for reasons such as measure against incitement to hatred. That court asks the Court of Justice whether a decision such as that taken by the LRTK is covered by that directive.

In its examination of the wording, objectives, context and origin of that directive, taking account also of the relevant case-law, the Court finds that a national measure does not constitute a restriction within the meaning of Article 3(1) of the directive if, in general, it pursues a public policy objective and regulates the way in which a television channel is distributed to consumers of the receiving Member State, where those rules do not prevent the retransmission as such of that channel. Such a measure does not introduce a second control of the channel's broadcasts in addition to that which the broadcasting Member State is required to carry out.

As regards the disputed measure, the Court notes that, according to the observations of the LRTK and the Lithuanian Government, the Lithuanian legislature, by adopting the Lithuanian law on information for the public, on the basis of which the decision of 18 May 2016 was taken, intended to combat the active distribution of information discrediting the Lithuanian State and threatening its status as a State in order, having regard to the particularly great influence of television on the formation of public opinion, to protect the security of the Lithuanian information space and guarantee and preserve the public interest in being correctly informed. The information referred to in that law includes material inciting the overthrow by force of the Lithuanian constitutional order, inciting attacks on the sovereignty of Lithuania, its territorial integrity and political independence, consisting in war propaganda, inciting war or hatred, ridicule or contempt, or inciting discrimination,

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).

violence or harsh physical treatment of a group of persons or a person belonging to that group on grounds inter alia of nationality.

In its observations the LRTK stated that the decision of 18 May 2016 had been taken on the ground that a programme broadcast on the channel NTV Mir Lithuania contained false information which incited hostility and hatred based on nationality against the Baltic States concerning the collaboration of Lithuanians and Latvians in connection with the Holocaust and the allegedly nationalistic and neo-Nazi internal policies of the Baltic countries, policies which were said to be a threat to the Russian national minority living in those countries. That programme was addressed, according to the LRTK, in a targeted manner to the Russian-speaking minority in Lithuania and aimed, by the use of various propaganda techniques, to influence negatively and suggestively the opinion of that social group relating to the internal and external policies of public of Lithuania, Estonia and Latvia, to accentuate the divisions and polarisation of society, and to emphasise the tension in the Eastern European region created by Western countries and the Russian Federation's role of victim.

On that basis, a measure such as that at issue must be regarded as pursuing, in general, a public policy objective.

Moreover, the LRTK and the Lithuanian Government stated in their written observations that the decision of 18 May 2016 governs exclusively the methods of distribution of NTV Mir Lithuania to Lithuanian consumers. At the same time, it is common ground that the decision of 18 May 2016 does not suspend or prohibit the retransmission of that channel in Lithuanian territory, since, despite that decision, it can still be distributed legally in that territory and Lithuanian consumers can still view it if they subscribe to a pay-to-view package.

Consequently, a measure such as that at issue does not restrict the retransmission as such in the territory of the receiving Member State of television programmes from another Member State of the television channel to which that measure is directed. The Court therefore concludes that such a measure is not covered by the directive.

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 judgment is published on the CURIA website on the day of delivery.

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