



## Nacionālā elektronisko plašsaziņas līdzekļu padome

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Rīga, 25 February 2022

### **DECISION No. 106/1-2**

*On suspension of the distribution of programme “Belarus 24” in the territory of Latvia*

National Electronic Mass Media Council of Latvia (hereinafter also – the Council) in the following composition – Chairman of the Council Ivars Āboliņš, Deputy Chairman of the Council Aurēlija Ieva Druviete, Member of the Council Ieva Kalderauska, Member of the Council Ilva Milzarāja, Member of the Council Andis Plakans by observing the competence specified in the Electronic Mass Media Law,

#### **notes that:**

In accordance with Clause 10 of Annex 5 “Procedure for Issuance and Implementation of Retransmission Permits” to the National Strategy for the Development of the Electronic Mass Media Sector for 2018-2022 (hereinafter – Annex 5 to the Strategy), the Council establishes and maintains the electronic registration system of electronic mass media that retransmits audio and audiovisual programmes (hereinafter – the Registration System). Clause 12 of Annex 5 to the Strategy stipulates that the Registration System consists of two parts:

- 1) register of electronic mass media, which retransmit audio and audiovisual programmes;
- 2) list of audio and audiovisual programmes retransmitted in Latvia.

Section 60, Paragraph 3 of the Electronic Mass Media Law stipulates that the National Strategy for the Development of the Electronic Mass Media Sector is an external regulatory enactment developed and approved by the National Electronic Mass Media Council. According to Section 60, paragraph 1, Clause 13 of the Electronic Mass Media Law, one of the competencies of the Council in the field of electronic mass media is *“to promote the policy of the electronic mass media appropriate to the national interests of Latvia”*. The provided condition is also applicable to the programmes included on the list of audio and audiovisual programmes retransmitted in

Latvia (hereinafter also – the List of Programmes). Thus, the Council is obliged to apply special care when examining the rights of the programme owner (the holder of rights, as well as its representative or electronic mass media) to distribute the programme in the Republic of Latvia.

The Council has received the assessment from state security institution (hereinafter – the Institution) informing the Council that the list of programmes currently retransmitted in Latvia includes television programme owned by “The National State TV and Radio Company of the Republic of Belarus” (hereinafter also – Belteleradio), the Chairman of which is Ivan Mikhailovich Eismont, a citizen of Belarus. Taking into account the information provided by the Institution, the television programme “Belarus 24”, which is distributed in the territory of Latvia, is under the sole possession and control of Ivan Mikhailovich Eismont and this person is included on the list of persons against whom the Council of the European Union has imposed financial and economic sanctions.

The Articles of Association of Belteleradio, approved by Alexander Lukashenko, President of the Republic of Belarus on 24 April 2003 state that Belteleradio is the central government institution of Belarus that provides information on state policy through television and radio broadcasting. Clause 2 of the Articles of Association states that Belteleradio is “subordinate to and accountable to the President of the Republic of Belarus”. Clause 14 of the Articles of Association states that Belteleradio is managed by the Chairman, who is appointed and may be removed by the President of the Republic of Belarus. From the information specified in the Articles of Association and the functions of the Chairman, it can be concluded that the Chairman of Belteleradio manages Belteleradio, has control over the economic resources of Belteleradio, as well as the current accounts (financial resources). According to publicly available information since 6 February 2018, the Chairman of Belteleradio is Ivan Mikhailovich Eismont, whose wife Natalia Nikolayevna Eismont is the Press Secretary of A. Lukashenko.

On 18 May 2006, the Council of the European Union adopted Regulation No. 765/2006 (hereinafter also – the Regulation) concerning restrictive measures against Belarus. Article 2 of this Regulation states that *“all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities or bodies associated with them, as listed in Annex I shall be frozen.”* Article 2 of this Regulation also provides that *“participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to [...] shall be prohibited.”* On 25 February 2021 the Council of the European Union adopted Implementing Regulation No. 2021/339 by which the list of persons included in Annex I to Regulation (EC) No. 765/2006, was supplemented, by also including Ivan Mikhailovich Eismont in it.

Section 11, Paragraph 1 of the Law on International Sanctions and National Sanctions of the Republic of Latvia on the introduction, imposition, and enforcement of sanctions provides that: *“The financial and civil legal sanctions imposed by the United Nations Security Council resolutions and the sanctions imposed by the European Union regulations are binding and directly applicable to the Republic of Latvia.”* In accordance with Article 288 of the Treaty on the Functioning of the European Union, the provisions of regulations and decisions of the European Union are also directly applicable in the Member States. Based on Section 5, Paragraph 1 of the Law on International Sanctions and National Sanctions of the Republic of Latvia, if financial restrictions have been imposed on the subject of sanctions, all persons in accordance with their competence have the obligation to immediately and without prior warning, take the following actions:

1) *to freeze all financial resources and financial instruments, which are directly or indirectly, completely or partially under the ownership, possession, holding or control of the subject of sanctions, including those financial resources and financial instruments that have been transferred to third persons;*

2) *to deny access for the subject of sanctions to financial resources and financial instruments;*

3) *not to provide the financial services specified in international or national sanctions to the subject of sanctions (including by means of authorisation).*

Section 19, Paragraph 1 of the Electronic Mass Media Law provides that *“for the retransmission and distribution of programmes on public electronic communications networks, it is necessary to receive the consent of the owner (holder) of the programme to be retransmitted and a retransmission permit from the National Electronic Mass Media Council.”* According to Annex 5, Clause 6 of the Council Strategy – in order to include a programme on the list of audio and audiovisual programmes retransmitted in Latvia, the programme owners, the representative of the owner or the electronic mass media itself must submit a completed form for including the programme on the List of Programmes, as well as a copy of the programme broadcasting licence (if the programme jurisdiction does not stipulate issuing of a broadcasting licence, a notice issued by the competent state authority of the programme jurisdiction must be submitted on the legality of broadcasting the programme). According to Clause 6.3 *“if the documents are submitted to the Council by the representative of the programme owner or the electronic mass media, documents certifying the right of the representative of the programme owner or the electronic mass media to distribute the programme in the Republic of Latvia shall also have to be submitted.”* Namely, in this case, a copy of the licence agreement or a power of attorney for the distribution of the

programme from the owner of the programme (the holder of rights) must be submitted.

Such transfer of the right to distribute the programme is implemented for a certain fee to the owner of the programme. According to the aforementioned, it can be concluded that the person provided by the Institution, who exercises control over the assets, financial resources and economic resources of the programme owner, derives income from the distribution of television programmes owned by this media company in the territory of Latvia.

Section 57, Paragraph 1 of the Electronic Mass Media Law stipulates that *“The National Electronic Mass Media Council is an independent, autonomous institution enjoying full rights, which in accordance with the competence thereof shall represent the interests of the public in the field of electronic mass media and supervise the latter so that in their operations the Constitution of the Republic of Latvia, this Law and other laws and regulations be complied with. [...]”* Based on the aforementioned and the careful assessment of the Council of the information provided by the competent institution, as well as in order to avoid breaching of the European Union sanctions or their possible evasion and in order to protect the electronic mass media from breaching the Regulation, the Council concludes that the creation and production of the programme content is the economic activity within the meaning of Section 1, Paragraph 2 and 3 of the Commercial Law, and thus television programmes as products of economic activity of a media company are considered an economic resource within the meaning of Regulation No. 765/2006. Thus, the programme “Belarus 24” is an economic resource within the meaning of the Regulation, the holder of which is a legal entity under the control of Ivan Mikhailovich Eismont, against which the European Union has imposed sanctions.

In accordance with the aforementioned, it can be concluded that the retransmission of the television programme “Belarus 24” in the territory of Latvia and the inclusion of which on the list of audio and audiovisual programmes retransmitted in Latvia contradicts the provisions of the Regulation, that *“all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities or bodies associated with them, as listed in Annex I shall be frozen.”*

Taking the aforementioned into account and on the basis of Section 15, Paragraph 4, Section 57, Section 62, Paragraph 2, Clause 1, Section 63, Paragraph 1, Clause 1 of the Administrative Procedure Law, Section 57, Section 60, Paragraph 1, Clause 13 of the Electronic Mass Media Law, Section 11 of the Law on International Sanctions and National Sanctions of the Republic of Latvia and Regulation No. 765/2006 of the Council of the European Union of 18 May 2006, as well as Implementing Regulation No. 2021/339 of the Council of the European Union of 25 February

2021, the Council

**decides:**

1. To temporarily prohibit the distribution of programme “Belarus 24” in the territory of Latvia until the sanctions imposed by the Council of the European Union concerning restrictive measures on Belarus against a specific person, who directly or indirectly is related to programme “Belarus 24”, are lifted.
2. To publish the decision in the official edition “Latvijas Vēstnesis”.
3. To publish the decision on the Council’s website.
4. To stipulate that the appeal of the decision shall not suspend its validity, in accordance with Section 185, Paragraph 4, Clauses 9 and 10 of the Administrative Procedure Law.
5. To stipulate that the member of the Council responsible for the control of the implementation of this decision shall be the Chairman of the Council Ivars Āboliņš.

The decision may be appealed within one month from the day of its entry into force at the Administrative District Court at 1A Baldones Street, Riga.

**Chairmen of the Council**

**Ivars Āboliņš**

*THIS DOCUMENT HAS BEEN SIGNED WITH A SECURE ELECTRONIC AND CONTAINS  
A TIME STAMP*