



Nacionālā elektronisko plašsaziņas līdzekļu padome

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Rīga, 6 December 2022

Decision No. 436/1-2

*On the cancellation of broadcast permit No. AA-180/1 of the
electronic media SIA “TV Rain” programme “TV Rain”*

National Electronic Mass Media Council of Latvia (hereinafter – the Council) in the following composition – Chairman of the Council Ivars Abolinsh (*Ivars Āboliņš*), Deputy Chairman of the Council Aurelija Ieva Druviete (*Aurēlija Ieva Druviete*), Member of the Council Ieva Kalderauska (*Ieva Kalderauska*), Member of the Council Andis Plakans (*Andis Plakans*), evaluating the operation of SIA “TV Rain”,

states that:

On 6 June 2022, the Council has issued a broadcast permit to SIA “TV Rain” for the production of the “TV Rain” programme, setting the basic conditions of the programme’s operation in the appendix of the broadcast permit No. AA-180/1-1 “Basic operation conditions”.

On 15 September 2022, the Council adopted decision No. 343/1-2 (18012000002822-1) on the initiation of an administrative violation process, based on the findings of the Monitoring Department of the Council, that, contrary to clause 5 of the “Basic operation conditions” of the broadcast permit issued to the programme, SIA “TV Rain” does not provide the programme “TV Rain” with language track in Latvian. During the administrative violation process, after evaluating the operation of SIA “TV Rain”, the explanations provided and the position expressed, the Council adopted decision No. 410/1-2 (18012000002822-2) on 10 November 2022 on imposing an administrative penalty in administrative offence case No. 18012000002822, based on the fact that it was found that SIA “TV Rain” deliberately, in the long term and systematically does not comply with the third part of Section 24 and the fifth part of Section 32 of the Electronic Mass Media Law (hereinafter – EMMML) and does not provide a programme with language track in Latvian, although SIA “TV Rain” was aware of

the EMML requirements, the “Basic operation conditions” and the requirements of the Council that can be proven by the letters sent on 25 July and 23 August 2022 regarding fulfilment of the “Basic operation conditions” of broadcasting permit No. AA-180/1. Thus, the Council made a decision that SIA “TV Rain” significantly violates the “Basic operation conditions” of the broadcast permit issued to the programme, does not ensure operation in accordance with the Latvian legal regulation on the creation of cross-border TV programmes and has committed an administrative violation provided for in Section 79 of the EMML. For the violation stated above, the Council fined SIA “TV Rain” in the amount of 800 (eight hundred) fine units or EUR 4,000.00 (four thousand euros). In the opinion of the Council, the violation is considered to be significant, as SIA “TV Rain” broadcasts the programme in the territory of Latvia and initially undertook to provide subtitles in Latvian; however, after receiving the broadcasting permit, it has impudently ignored this obligation, thus also directly demonstrating its attitude towards Latvian regulatory enactments, the Latvian language and the country as a whole. At the same time, non-provision of language track also poses a threat to public safety, because in the case of a crisis, it would be necessary to inform the public as quickly as possible, reaching the largest possible audience, and the Latvian-speaking audience would not be informed, as the content would only be distributed in a foreign language, without the provision of subtitles in Latvian.

On 13 October 2022, the Council adopted decision No. 380/1-2 (18012000003122-1) and initiated the administrative offence process in administrative offence case No. 18012000003122, based on the findings of the Monitoring Department of the Council, that in the period from 1 October 2022 to 10 October 2022, broadcasts and broadcasts replays were shown by the programme in which the Armed Forces of the Russian Federation were referred to as “our army”, as well as contour maps of parts of Eurasia were depicted, in which the Crimean Peninsula was coloured as a territory belonging to the Russian Federation, thus conveying inaccurate information to the audience of the electronic media programme, as the Crimean Peninsula is the territory of Ukraine and has never been legally included in the Russian Federation. Thus, SIA “TV Rain” has violated the obligation set forth in the fourth part of the Section 24 of the EMML to disclose information, observing the principle of due accuracy. During the administrative violation process, when evaluating the activities of SIA “TV Rain”, the explanations given and the position expressed, as well as the fact that SIA “TV Rain” has mistakenly displayed an inaccurate contour map, while referring to the armed forces of the Russian Federation as “our army” could be considered a means of artistic expression and expression of freedom of speech, the Council adopted decision No. 429/1-2 (18012000003122-

2) on 1 December 2022, imposing an administrative penalty in administrative offence case No. 18012000003122, based on the fact that it was established that SIA “TV Rain” in its operation does not comply with the obligation set forth in the fourth part of Section 24 of the Electronic Mass Media Law (hereinafter – EMMML), thereby spreading inaccurate information and misleading the public in relation to the territorial unity and integrity of Ukraine, as well as in relation to the fact that parts of the armed forces of the Russian Federation are not parts of the armed forces of Latvia and vice versa.

In the current geopolitical conditions, a topic that offends a particularly sensitive issue can be shown in compliance with the highest standards of accuracy, but SIA “TV Rain” has done exactly the opposite – it has repeatedly broadcasted programmes and their repetitions, including inaccurate information, while at the same time giving the public a false impression of the reliability of this information. In the opinion of the Council, such a violation, namely demonstrating significantly inaccurate information about the territorial unity of Ukraine, as well as expressing the position that parts of the armed forces of the Russian Federation are considered our army is unacceptable and affects not only the observance of the “Basic operation conditions” of creation of the programmes, but also the state of Latvia and public safety.

The purpose of the operation of media under Latvian jurisdiction is to act in the interests of Latvian society by informing, entertaining and educating the public, the media is also one of the platforms, through the use of which the public can obtain reliable, true and accurate information about current events, including announcements in the case of a possible state threat, but if there is information disseminated in an electronic mass media programme that is inaccurate and can significantly mislead the audience, the electronic media no longer fulfils the programme’s creation conditions and does not provide the main objectives of the media. In compliance with the information provided above, the Council has imposed a fine of 2,000 (two thousand) fine units or EUR 10,000.00 (ten thousand euros) on SIA “TV Rain” for the committed violation.

On 2 December 2022, the Council adopted a decision on administrative offence process No. 18012000003622 regarding the fact that SIA “TV RAIN” on 1 December 2022 has broadcast the programme disseminating information about the conditions in which the mobilised residents live in the Russian Federation. In this broadcasted the following information was presented inter alia: *“So if you watch our broadcast now, and if you have evidence or witnesses that could testify to how the mobilisation is being carried out, the conscripts serving in the combat areas and being sent to the front line, and you want to share it, to speak about the issues within the Russian army, send a letter to us to army@tvrain.tv. or*

text our Telegram bot. We answer almost everyone and many of the stories that are being sent to our email and to the Telegram bot end up published. We hope we were able to help a lot of soldiers with equipment and basic necessities on the front line, for example. Because the stories that the relatives are posting and telling, frankly, are terrifying.” In the opinion of the Council, such statements can be evaluated as an invitation to the audience of the programme to provide information about the material and security situation of the persons mobilised in the armed forces of the Russian Federation, including spreading an indirect call to help the persons mobilised in the armed forces of the Russian Federation, i.e., soldiers of the armed forces of the Russian Federation who lack drinking water, food, equipment and weapons, to collect goods and hand them over to a party involved in an armed conflict taking place outside the territory of the Republic of Latvia – to help the armed forces of the Russian Federation, whose activities are directed against the territorial integrity and political independence of Ukraine, thus endangering not only the security of the state of Ukraine, but also creating a significant threat to the security of Latvia and other European countries.

The Council’s guidelines for the application of the first part of the Section 26 “restrictions on production of programmes” of the Electronic Mass Media Law state that, in the sense of the Section 26, Part One, Clause 7 of the Electronic Mass Media Law, “a call that constitutes a threat to national security” is a broadcast or a programme created by an electronic media that shows a story with active verbal and/or gestural actions of the host/creator or the guest of the programme representing a direct or indirect call made to another person or group of persons to commit such actions that threaten national security. The aforementioned actions can be related to physical actions, for example, a call to provide material support by collecting and handing over any goods (equipment and material values providing basic comfort) with the aim of providing material assistance to a party involved in an ongoing armed conflict, the actions of which are directed against the territorial integrity and political independence of a country, thus endangering national security. Calls that threaten national security or significantly threaten public order or security within the scope of Section 26, Part One, Clause 7 of the EMMML can be applied to any country and threaten not only the security of Ukraine, but also pose a significant threat to the security of Latvia and other European countries. Evaluating the specific case, a situation is emerging in which an electronic media under the jurisdiction of Latvia basically calls for support for the Russian Federation being recognised as a state

supporting terrorism¹, and thus supports the continuation of the hostile actions initiated by the Russian Federation in Ukraine.

On 5 December 2022, the Council received a letter from the State Security Service (hereinafter – VDD), drawing attention to the activities of SIA “TV Rain” distributing a plot, the content of which was dedicated to the Russian soldiers currently fighting and being killed in Ukraine and mobilised citizens of Russia. The letter stated that it is not permissible to provide any kind of support to the aggressor country – Russia, whose targeted military attacks and violence against Ukrainian civilians are recognised as terrorism, and Russia is recognised as a state supporting terrorism. And the distribution of such content poses a threat to Latvia’s national security as a whole. At the same time, the VDD recalls that any direct or indirect collection or transfer of financial resources or other goods to a party, which is involved in an armed conflict taking place outside the territory of the Republic of Latvia and whose action is directed against the territorial integrity or political independence of a state or is otherwise colliding with international law binding upon the Republic of Latvia, is subject to criminal liability according to Section 77.² of the Criminal Law.

The guilt of a legal entity can be determined taking into account two conditions: first, whether the legal entity had the opportunity to ensure compliance with the rules, the violation of which is subject to administrative responsibility, secondly, whether the legal entity took the necessary measures to ensure compliance with these rules (*see decision of the Supreme Court’s Administrative Case Department of 5 March 2009 in case No. SKA-19/2009*). SIA “TV Rain” had the opportunity to ensure compliance with the regulatory acts applicable to the industry, as well as to take all necessary measures to ensure the fulfilment of the established obligations and restrictions, at the same time, SIA “TV Rain” had the opportunity not to carry out actions calling for the provision of support to the armed forces of the Russian Federation.

According to the aforementioned the Council:

concludes:

Section 2, Part two, Clause 1 of the Electronic Mass Media Law provides that the objective of the Electronic Mass Media Law is to “*ensure freedom of speech and expression of opinions, general access to socially significant information, the unhindered maintenance and*

¹ Statement of the Saeima of the Republic of Latvia of 11 August 2022 “On Russia's targeted military attacks on Ukrainian civilians and public space”.

development of free democratic discussion, providing the possibility for every inhabitant of Latvia to form an opinion independently on the processes occurring in the State and, thus, promoting his or her participation as a member of a democratic society in the development of decisions related to these processes”. On the other hand, in the second part of Section 24 of the EMMML it is determined that the electronic media under the jurisdiction of Latvia defend the idea of an independent, democratic and legal State, respect human rights and act in the interests of Latvian society.

Section 26, Part one, Clause 7 of the Electronic Mass Media Law provides that: *“The programmes and broadcasts of the electronic mass media may not contain any call that constitutes a threat to national security or a serious threat to public order or public safety.”* According to the Council’s guidelines for the application of the first part of the Section 26 “restrictions on production of programmes” of the Electronic Mass Media Law, the term “call” means a form of influence on people's consciousness, will, their behaviour, when as a result of direct influence people acquire a desire to perform certain types of purposeful actions. The call is usually made using verbs in the imperative mood, however calls can also be made indirectly through allegories, metaphors or rhetorical questions, as well as in other ways. The term “national security” refers to a system of measures for the protection of the political and economic foundations of the state and the borders of the state. The term also includes “national security”, that according to the Section 1 of the National Security Law is a state, attained as a result of joint, purposeful measures implemented by the State and society, in which the independence of the State, its constitutional structure and territorial integrity, the prospect of free development of society, welfare and stability are guaranteed. On the other hand, “a call that constitutes a threat to national security” is a broadcast or a programme created by electronic media that shows a story with active verbal and/or gestural actions of the host/creator or the guest of the programme representing a direct or indirect call made to another person or group of persons to commit such actions that threaten national security (for example, in the specific case, it can be stated that an indirect call is made to carry out actions aimed at providing assistance to the Russian Federation – a country that is currently undermining or threatening the territorial indivisibility, sovereignty and independence of another democratic country – Ukraine, by committing war crimes).

Given the necessity to ensure national security and to anticipate and prevent internal and external threats to the country in a timely manner, as well as to guarantee national defence, public security and its democratic development, the distribution of content in electronic mass

media programmes that endangers or threatens the national security or public order and safety is not permissible.

The Council concludes that SIA “TV Rain” commits violations systematically and does not recognise them. In view of the information provided above, it cannot be ruled out that violations of regulatory acts will be repeated and the application of administrative penalties, i.e., fines, does not contribute to the prevention of new violations. It should also be emphasised that non-compliance with the “Basic operation conditions” of the issued broadcast permit regarding the creation and distribution of content of the programme is itself considered a significant violation, as distributing a programme that does not comply with the initially specified “Basic operation conditions” does not meet the public interests and the purpose for which the Council issued the specific broadcasting permit. Evaluating both the written and oral explanations of SIA “TV Rain” within the framework of the administrative violation process, as well as the position expressed publicly by representatives of the electronic media, the Council concludes that SIA “TV Rain” does not understand the nature of the violations committed and their significance. This is also confirmed by the publicly expressed position of the chief editor of SIA “TV Rain”, T. Dzijadko, who does not recognise the violations, but on the contrary considers significant violations to be kind of errors, overstatements and technical problems. In the opinion of the Council, the actual operation of the electronic media also shows deliberate actions in the commission of violations, as the creation of the programme and the way the programme’s content of the electronic media is created do not allow such “mistakes”, because, for example, creation of the email address army@tvrain.tv in order to be able to provide assistance to the persons mobilised in the Russian Federation cannot be considered as “inadvertency” or “mistake”. The electronic media calls to inform about the things happening during the war in order to be able to help the mobilised persons – in fact, such behaviour has visible signs of a call to commit criminal offences. Instead of informing the public about the war crimes committed by the army of the Russian Federation in another democratic, independent country, the media talks about the difficult living conditions of the army that commits war crimes and calls for their improvement that would facilitate further war crimes. Instead of actively calling for the cessation of criminal acts against international peace and further *jus cogens* crimes, for laying down arms, capitulation or resistance to criminal orders, there is a call for the improvement of living conditions. Thus, if the electronic media and its creators do not understand the nature of the violations, they are unable to change their actions and prevent the harmful consequences.

In the opinion of the Council, regular violation of regulatory acts, essential non-compliance with the “Basic operation conditions” of the broadcast permit issued to the programme, violation of programme creation conditions, as well as disclosure of information threatening the State and security cannot fulfil the task of the electronic media – to inform, educate and entertain the audience of the electronic media. Likewise, such electronic media activity does not contribute to the protection of public interests, the safety of the information space and the development of the electronic media environment. Even though SIA “TV Rain” dismissed the journalist A. Korostelev from his job, assessing the situation on the whole, the Council concludes that the threat to national security and public order and security is not only caused by the actions of one specific journalist, but by the numerous violations committed by the electronic media, the essence of each individual violation, as well as the attitude expressed by the electronic media and its representatives publicly and during the proceedings initiated by the Council in relation to the committed violations and the actions taken for their further prevention and mitigation of harmful consequences. In the opinion of the Council, the electronic media does not systematically recognise the violations, does not understand the nature and significance of the violations, as well as their impact on the general operation of the electronic media and its ability to continue its work in accordance with the regulations being in force in Latvia and applicable to the operation of electronic media.

The Council has the duty to create the policy of the electronic mass media appropriate to the national interests of Latvia, to create equal operating conditions for all electronic media under Latvian jurisdiction, as well as to promote the competitiveness of the electronic mass media under the jurisdiction of Latvia in the Latvian, European and world market. Thus, there is no doubt that the operation of such an electronic media programme, in which the regulatory acts applicable to the industry are repeatedly and significantly violated, is neither in the interests of the state nor the public, nor in the interests of the development of the electronic media industry and the security of the information space. Otherwise, a situation would arise in which one market participant, having repeatedly violated the regulatory enactments, would have the opportunity to continue operating alongside those electronic media that faithfully comply with the obligations set forth in the regulatory enactments.

Section 21, Part three, Clause 8 of the Electronic Mass Media Law provides that: “*The National Council of Electronic Media cancels a broadcast permit or a retransmission permit if the electronic media threatens national security or significantly threatens public order or security.*” On the other hand, Part three, Clause 1 of this Section states that “*When applying the third part of Section 21 of this law and evaluating the significance of the violation, the National*

Electronic Media Council takes into account the public danger posed by the violation, the actions taken by the electronic media in connection with the consequences of the violation and prevention of repetition of such violation, the impact of the violation on the general operation of the electronic media and the ability to continue the operation of the electronic media”.

In compliance with the information provided above, the Council, evaluating the operation of SIA “TV Rain” and taking into account the regulations applicable to the industry, makes a comprehensive assessment of the appropriateness of issuing and content of an administrative act. The criteria for evaluating usefulness when deciding on the issuance of an administrative act, are determined in the Administrative Procedure Law. When evaluating the usefulness of issuing of an administrative act or its content, the Council evaluates a number of considerations indicated below for the rendering of the decision.

The need for an administrative act to achieve the legitimate goal – according to Section 100 of the Constitution of Latvia *“Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express his or her views. Censorship is prohibited.”* Section 116 provides that the rights of persons set out in Section 100 of the Constitution may be subject to restrictions in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the State, and public safety, welfare and morals. The Constitutional Court has explained that the Constitution has established restrictions on freedom of expression in general, while the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR) provides more specific criteria. Therefore, with regard to the permissible broader restrictions on freedom of expression, the norms of the Constitution must be interpreted within the meaning of Article 10 of the ECHR (*Clause 22 of Judgment of the Constitutional Court of 29 October 2003 in case No. 2003-05-01*). The purpose of restriction of the fundamental right to freedom of expression shall only be recognised as legitimate if it complies not only with the purposes referred to in the Article 116 of the Constitution, but also with Article 10 of the ECHR, based on which the freedom of expression may be restricted (*Clause 9 of Judgment of the Constitutional Court of 22 February 2010 in case No. 2009-45-01*). Section 10, Part two of the ECHR states: *“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”*

Section 21, Part three determines in which cases the Council cancels the broadcast or retransmission permit issued to the electronic media. The legitimate aim of restricting freedom of expression in this case is clearly the security of the state and society, as well as the preservation of the democratic state system. Protection of the democratic state system as a legitimate aim includes the protection of national security and the territorial integrity of Latvia.² The Council emphasises that the distribution of content that threatens national security in electronic mass media programmes is prohibited, and this threat to national security must be assessed not only in the context of security in Latvia, but also in the context of other countries' security. In addition, by establishing that the content created and displayed by the media threatens national security or significantly threatens public order and security, it can be clearly concluded that the electronic media itself also threatens national security or significantly threatens public order and security, as according to the Section 25 of the Electronic Mass Media Law, the electronic media takes editorial responsibility for the content shown in its programme. At the same time, the Council has determined that the social media platform "Twitter" has publicly available information, i.e., the position expressed by the true beneficiary of SIA "TV Rain", N. Sindeyeva: *"How could we leave emotions aside when something like this happens. Please, do understand, when mass graves are found, when you see our mobilised guys who are in the forest and have nowhere to live, who have no food, who have no uniform, this situation is really terrible. How could we leave emotions aside in this situation? There cannot be any neutral position here, so it is not neutral for us either, it is too emotional."* Such an opinion clearly indicates support for persons in the armed forces of the Russian Federation who are committing genocide in the territory of Ukraine. And while this may be considered a personal opinion, there is no reasonable doubt that the true beneficiary of the electronic media has direct control over the content and topics included in the electronic media broadcasts. Thus, it can be clearly concluded that SIA "TV Rain" threatens national security or significantly threatens public order and security, as it expresses support for the activities of a terrorist state and any direct or indirect collection or transfer of financial resources or other goods to a party, which is involved in an armed conflict taking place outside the territory of the Republic of Latvia and whose action is directed against the territorial integrity or political independence of a state or is otherwise colliding with international law binding upon the Republic of Latvia, is subject to criminal liability according to Section 77.² of the Criminal Law. The activities of such electronic

² Constitutional Court judgment. 2000-03-01. 30 August 2000. Paragraph 7 of the Conclusions.

media, which are criminally punishable, do not correspond to the interests of the state and public security of Latvia.

The threat to national security can have several levels – depending on the type of threat, its intensity, nature, as well as the area of the territory under threat. After assessment of the information disseminated in the electronic mass media programme, as well as the geopolitical situation in which it is disseminated, the Council considers it reasonable to decide that the disseminated information poses a significant threat to national security and public safety. The significance of the considered violations is also characterised by the fact that the primary target audience of the programme is the Russian-speaking part of society, including ethnic Russians, citizens of the Russian Federation, etc. They have been under the influence of targeted disinformation provided by the Russian Federation for a long time. The Russian Federation has created an alternative picture of the world that allows them to freely invade another independent democratic country. Therefore, accuracy in creating content is extremely important, especially when informing about war crimes, illegal activities of the army.

The Constitutional Court has recognised that everyone has the right to freely express their opinion in any form – orally, in writing, visually, using artistic means of expression, etc. (see *Clause 1 of the Conclusions, Judgment of the Constitutional Court of 5 June 2003 in case No. 2003-02-0106 and Clause 21, Judgment of the Constitutional Court of 29 October 2003 in case No. 2003-05-01*). In addition to freedom of speech, alongside its traditional manifestations, for example, speeches, diversity of opinion in mass media, participation in demonstrations and other events, are also various forms of artistic expression, for example, fiction, painting, music, as well as other combined forms of expression for freedom of speech, inter alia, use of symbols (see *Clause 11.4, Judgment of the Constitutional Court of 2 July 2015 in case No. 2015-01-01*); however the Constitutional Court has recognised that the right to freedom of speech is not absolute and may be restricted if necessary in the public interests (see *Clause 13, Judgment of the Constitutional Court of 2 July 2015 in case No. 2015-01-01*). Nor does the right to freedom of expression imply permissiveness. It follows from both the Constitution and the international human rights treaties binding for Latvia that the right to freedom of expression may be restricted. The State may impose restrictions on freedom of expression in cases where a person's right to freedom of expression directly affects the rights of other persons, as well as in cases where freedom of expression poses a clear and direct threat to society (see *Clause 22 of the Conclusions, Judgment of the Constitutional Court of 29 October 2003 in case No. 2003-05-01 and Manfred Nowak. U.N. Covenant on Civil and Political Rights. CCPR Commentary. – Publisher N. P. Engel, Kehl, Strasbourg, Arlington, 1993, p. 337*). In view of the above, the

Council considers that the legitimate goal, according to which it is permissible to restrict the freedom of expression of a person by an administrative act is the protection of the national interests, protection of national security and public security. Thus, the Council considers that the decision is appropriate for achieving a legitimate aim. If the legitimate aim to be protected is directly affected by the creation and distribution of the programme of the electronic media in the territory of the Republic of Latvia, then the restriction of the broadcast permit clearly prevents the violation of the legitimate aim. Such a restriction is appropriate, permissible and necessary in a democratic country.

Suitability of the administrative act to achieve the objective – with regard to the assessment of restrictions on freedom of expression, account should also be taken of the findings of the European Court of Human Rights (hereinafter referred to as the ECtHR) that audiovisual media, such as radio and television, have the potential to influence society more quickly and effectively than, for example, the printed press (see *ECtHR Judgment in the case of Manole and Other v. Moldova, Clause 97*). Thus, information harmful to the public provided by means of the television also has a much more significant negative effect on the public than print media. Consequently, the state should not impose equally strict criteria for the restriction of television programmes as on the restriction of freedom of expression in print media.

Also in this aspect, it is necessary to take into account the findings stated in the Judgment of the Constitutional Court of 29 October 2003 in case No. 2003-05-01. In that judgment, the court referred to the views expressed by Lucius Wildhaber, former President of the ECtHR, in an interview in which he stated that a distinction should be made between information considered as a point of view of a journalist or a third party and information provided as news. The news must always be true, but the opinion is always subjective and emotional, so it can be very unpleasant for someone. The judgment also states that the right to freedom of expression and the press is derived from the people's right to freely receive information and does not constitute a special right provided for a journalist. The public has the right to receive true information and the role and duty of the media is to ensure the protection of such public interests. In the Council's view, it is not in the public interest to receive information that contains calls that threaten the security of a country or contains a threat to public order or public safety. Such information can cause social anxiety and fear for the people about the existence of their country, their future and the future of their families. In addition, the operation of an electronic media that constitutes a threat to national security or a serious threat to public order or public safety in the information space of Latvia, alongside electronic media that respects the conditions and restrictions of the broadcasts creation, creates unreasonable trust in the public

in the content disseminated by this electronic media, thus not excluding the possibility that trust in information disseminated in such electronic media, which cannot be checked and monitored 24/7, may affect public order and people's safety, thus significantly and clearly affecting national security as a whole. In the case that such electronic media were not to continue its activity in Latvia and the broadcast permit issued to it were to be annulled, the damage caused to the interests of national security and public order and security would be significantly reduced.

The necessity of an administrative act in a democratic society in the specific case, as it was concluded above, is justified by the fact that the operation of the electronic media "TV Rain" and broadcasting of its programme "TV Rain" in the territory of Latvia leads to an infringement of the interests of national security and public order and security. Thus, in order to guarantee the security, stability and efficiency of a democratic system, a country may need to take special measures to protect itself. The European Court of Human Rights has therefore recognised the legitimacy of the concept of "democracy able to defend itself" (*Judgment of the Grand Chamber of the European Court of Human Rights of 16 March 2006 in the case Ždanoka v. Latvia, Clause 100*). In the Council's view, the concept of "democracy able to defend itself" enshrined in the case-law of the ECHR is applicable to the current case, implying the right of a State to restrict the rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR), including the right to freedom of expression, if these rights are exercised contrary to the aims provided for in the ECHR. The Constitutional Court has also acknowledged that a democratic state has not only the right but also the duty to protect the principles on the basis of which it was created (*see: Judgment of the Constitutional Court of 15 June 2006 in Case No. 2005-13-0106, Clause 13.6*). In the specific case, it can be concluded that the activities of such an electronic media aimed at systematic non-compliance with the regulatory acts applicable to Latvian electronic media industry, as well as providing assistance to the aggressor country Russia, whose targeted military attacks and violence against Ukrainian civilians have been recognised as terrorism, clearly and significantly contradicts the aims of the electronic media and the security interests of the Latvian state and its information space. Thus, in the Council's view, it is necessary to prevent a violation of a legitimate aim commenced by distribution of the "TV Rain" programme and the operation of the electronic media "TV Rain" in the Republic of Latvia in order to protect national security, territorial integrity and public security. In addition, given the important role of television in providing information to the public, the Council considers that there are no legal mechanisms that can be used to limit the harm caused by the electronic media "TV Rain" other than the Council's right to annul the broadcast permit issued to the electronic media according

to the Part 3, Section 21 of the Electronic Mass Media Law, as the operation of the electronic media clearly and seriously breaches the requirements set by the Electronic Mass Media Law and applicable to the operation of the electronic media and creation of programmes and poses a significant threat to national security, especially in the current geopolitical situation.

The Council emphasises that by allowing the operation of the electronic media “TV Rain” in the territory of Latvia in the current geopolitical situation, Latvia will not be able to guarantee the protection of its population and the audience of this programme against harmful content that threatens the safety and public order, as well as security of Latvia and other countries.

The Council, in accordance with Section 62, Part three of the APL indicates the considerations, explaining why it believes that the decision of the recipients of this decision had to not be heard out during the adoption of the relevant decision. In accordance with the provisions of Section 62, Part two, Clause 1 of the APL “*it shall not be necessary to clarify the opinion and arguments of a person if the issue of the administrative act is urgent, and any delay directly poses a threat to national security, public order, environment, or the life, health or property of a person*”. In the light of the foregoing, it must be concluded that the Council was not required to hear the views of the recipients of the decision, because the Council has at its disposal all the information necessary for the consideration of the case, obtained on the basis of the monitoring carried out by the Council; previously adopted decisions within the framework of administrative violation processes; statements made by responsible officials of SIA “TV Rain” in the public space; the fact that the programme of the electronic media calls for support to the country being recognised as a state supporting terrorism both at the Latvian and European level, by strengthening its armed forces; as well as the letter received by the Council on 5 December 2022 from the competent state administrative institution, any delay in making a decision poses a threat to national security and public order or security. In addition, in the administrative act the Council has carried out an assessment of the arguments of administrative act recipients, and has justified the conformity of such restriction in the context of the protection of the right to freedom of speech.

Evaluating all of the information provided above in a mutual context, the Council concludes that the committed violations have a significant impact on the operation of the electronic media, as well as the electronic media industry as a whole, and are not compatible with the successful and legal operation of the electronic media in the public interests.

In compliance with that which is stated above, as well as on the basis of Section 60, Part One, Clause 2, Section 21, Part three, Clause 8 and Section 21, Part one, Clause 3 of the Electronic Media Law, the Council

decides:

1. To cancel broadcasting permit AA-180/1 issued for the electronic media SIA "TV Rain", registration No. 40203395066.
2. To publish the decision on the website of the Council on the internet and in the official edition "Latvijas Vēstnesis" regarding the broadcasting permit AA-180/1 cancellation for the electronic media SIA "TV Rain".
3. To notify SIA "TV Rain" of the adopted decision.
4. To notify the social media platform "YouTube" of the adopted decision, asking to ensure the unavailability of the "TV Rain" YouTube channel on the territory of Latvia, using a geo-blocking or other technological solution.
5. The Chairman of the Council Ivars Abolinsh (*Ivars Āboliņš*) shall be responsible for the implementation of this decision.

The Decision enters into force upon its announcement.

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

The Council establishes that in accordance with Section 185, Part four, Clause 10 of the Administrative Procedure Law, an appeal of this decision shall not stop its validity.

Chairman of the Council

Ivars Āboliņš

*THE DOCUMENT IS SIGNED ELECTRONICALLY WITH A SECURE ELECTRONIC
SIGNATURE AND CONTAINS A TIME STAMP*