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Judgment of the Court in Case C-451/22 | RTL Nederland and RTL Nieuws

Disaster involving flight MH17: the confidentiality of certain information concerning aviation safety is justified and proportionate

On 17 July 2014, 298 people lost their lives when Malaysia Airlines flight MH17 from Amsterdam (Netherlands) to Kuala Lumpur (Malaysia) was downed by a missile of Russian origin while it was above Hrabove, a village located in Donbas, a region of eastern Ukraine that was at that time controlled by pro-Russian separatists. In 2018, RTL Nederland and RTL Nieuws, two Dutch media undertakings, requested information in this connection from the Netherlands Government.

The competent minister refused that request, referring to the confidentiality of the information concerned, under national and EU law ¹.

The RTL undertakings dispute that confidentiality. In addition, in their appeal before the Council of State (Netherlands), they rely on the fundamental right to freedom of expression and information and on the specific role of 'watchdog' accorded to the press in that context.

In its judgment, the Court of Justice confirms **that the confidentiality of information relating to aviation incidents and accidents is a central element of the system of supervision and control established by the EU legislature for the purpose of improving aviation safety, which is based on the collection, the sharing between public authorities and the analysis of that information.** It also states that that confidentiality is strict and applies to all information that is collected or drawn up for that purpose by the national competent authorities. Lastly, it observes that the corollary of that obligation is the prohibition on making available or using such information for any other purpose.

Furthermore, the Court holds that, even though that general and strict confidentiality regime is liable to impair the right to freedom of expression and information, it **is justified and proportionate to the objective that it pursues.**

It does not preclude the public or the media from seeking information in this connection from other sources or by other means. Furthermore, it does not preclude all possibility for the information in question to be disclosed, at the initiative and under the control of the competent authorities or courts, provided that this is compatible with the maintenance of aviation safety.

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 EU law or the validity of an EU 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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106

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¹ [Regulation \(EU\) No 376/2014](#) of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation.