[FR] EUR 300,000 fine imposed by ARCOM on C8 halved

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C8 lodged an appeal with the *Conseil d'Etat* (Council of State) against the EUR 300,000 fine imposed on it by the *Autorité de régulation de la communication audiovisuelle et numérique* (the French audiovisual regulator – ARCOM) in respect of an episode of the programme "Touche pas à mon poste" broadcast on 5 October 2022. The host, Cyril Hanouna, had made offensive remarks about the Mayor of Paris, who had not been present in the studio at the time, in response to the decision not to install giant screens for the World Cup in Qatar. In particular, he had asked her to "keep her mouth shut" and "hunt rats at night instead of spouting rubbish". The presenter had also said she belonged to a "band of morons" and told her to "stop pissing us about". ARCOM considered that, by broadcasting these remarks, the channel had breached its obligations under its licence to respect the rights of individuals with regard to their honour and reputation, and to control its programmes.

The *Conseil d'Etat* noted that ARCOM had been right to consider that the host's comments constituted attacks on the name of not only the office of Mayor of Paris but also the current incumbent, Anne Hidalgo. Since the regulator had not based its decision on Article 33 of the Law of 29 July 1881, which punished insults in the press or by any other means of communication, the applicant company could not claim that ARCOM had lacked jurisdiction on the grounds that it had implicitly considered the comments insulting.

In addition, the sequence had not been humorous in nature, but had been characterised by the repetition of aggressive and coarse language, the accumulation of which made it violent, even hateful, towards the mayor, damaging her image and honour. By broadcasting it, C8 had therefore failed to fulfil its obligations under its licence. Furthermore, these comments had been neither tempered nor toned down by the programme's other participants, demonstrating a lack of control over programme content. In these circumstances, ARCOM's decision had not infringed Article 10 of the European Convention on Human Rights, which protected freedom of expression. The argument that the contested penalty was contrary to the principle of non-accumulation of sanctions was also rejected.

The *Conseil d'Etat* pointed out that under the terms of Article 42-2 of the Act of 30 September 1986, "The amount of the financial penalty must be commensurate with the seriousness of the breaches committed and the benefits derived from the

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breach, but may not exceed 3% of the turnover excluding tax in the last complete financial year, calculated over a period of twelve months. This maximum is increased to 5% in the event of a further infringement of the same obligation. (...) Where the infringement constitutes a criminal offence, the amount of the financial penalty may not exceed that provided for the criminal fine". When challenging the proportionality of the fine, the applicant company could not usefully argue that it had exceeded the EUR 12,000 ceiling set under Article 33 of the Law of 29 July 1881 for the punishment of insults. However, the *Conseil d'Etat* concluded that, given the content and circumstances of the breaches in question, the EUR 300,000 fine imposed on C8 had been excessive and should be halved to EUR 150,000.

Conseil d'État, 6 mai 2025, n° 476367, Société C8

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-05-06/476367

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