[FR] Clarification of how ARCOM assesses pluralistic expression of schools of thought and opinion in programmes

IRIS 2025-8:1/15

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A number of associations had asked the *Autorité de régulation de la communication audiovisuelle et numériqu*e (the French audiovisual regulator – ARCOM) to send a formal notice, on the basis of Articles 42 and 48-1 of the Law of 30 September 1986, to the television services France 2, France 3, France 4, France 5, France Info, Arte, TF1, M6, TMC and BFM, and radio services France Inter, France Culture, RMC and RTL, urging them to "amend the list [of] presenters, columnists and guests other than politicians" appearing on their programmes "so that the various schools of thought and opinion have speaking time proportionate to their importance in French society". Since ARCOM's failure to act on these requests implied that it had rejected them, the applicants asked the *Conseil d'Etat* (Council of State) to overturn these decisions on the grounds of *ultra vires*.

The Council of State pointed out that, under the provisions of Articles 1, 3-1 and 13 of the Law of 30 September 1986, ARCOM's remit was to guarantee respect for the pluralistic expression of schools of thought and opinion in audiovisual programmes, particularly in news programmes. As set out in the Reporters Without Borders decision of 13 February 2024 (IRIS 2024-8:1/8), it was up to ARCOM to assess whether broadcasters complied with this requirement while exercising their editorial freedom by taking into account, throughout their programming, the diversity of schools of thought and opinion expressed by all participants in the programmes broadcast.

It was up to ARCOM, when it received a relevant complaint from a person with a legitimate interest, to investigate, over a period that, except in special circumstances, should be long enough for it to be able to make its assessment, whether there was any obvious, long-term imbalance in view of the need for pluralistic expression of schools of thought and opinion in radio and television programmes, in particular news and current affairs programmes.

As such, ARCOM must make an overall assessment of the diversity of expression, without having to qualify or classify programme participants with regard to schools of thought and opinion. This examination was without prejudice to the rules applicable to the calculation of speaking time for politicians, particularly

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during election periods, and to other provisions and stipulations applicable to the services concerned.

In the present case, ARCOM could not, in the exercise of its jurisdiction, accede to a request to qualify or classify programme participants (except politicians) on the basis of their presumed affiliation to certain schools of thought and opinion and, consequently, rule on the speaking time that should be allocated to them in proportion to the importance of these schools of thought and opinion in French society. It was therefore obliged to reject the applications, especially as the applicants had based their arguments on records of speaking time allocated to politicians, whereas their application had only mentioned “presenters, columnists and guests other than politicians”.

Conseil d'État, 4 juillet 2025, 494597, 494628, 494797, 498439, Association Cercle droit et liberté, Observatoire du Journalisme et a.

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-07-04/494597

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