[BE] State Council and Flemish Media Authority VT4 Take Action concerning

IRIS 2000-6:1/11

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On 17 February 1999 the Vlaams Commissariaat voor de Media (the Flemish Media Authority) decided that although VT4 operates under an ITC-licence in application of the British Broadcasting Act, VT4 in reality is established in the Flemish Community. VT4 was given until 15 September 1999 to request a licence as a Flemish broadcasting organisation and to conform to the media legislation of the Flemish Community (see IRIS 1999-3: 11 and IRIS 1999-6: 13). The decision of the Media Authority resulted from a complaint by VTM, the Flemish commercial TV-broadcaster, against VT4.

At the request of VT4 the State Council (Conseil d'Etat/Raad van State) has suspended this decision of the Flemish Media Authority. In its judgment of 25 November 1999 the High Administrative Court was of the opinion that the Flemish Media Authority did not apply correctly the basic principles of the "Television Without Frontiers" Directive. According to the State Council, the Media Authority wrongly considered VT4 to be a Flemish broadcaster. Referring inter alia to the opinion of the European Commission formulated in its "letter of formal notice" of 2 August 1999 (see IRIS 1999-7: 6), the State Council decided that the Flemish Media Authority had no competence over VT4 as this broadcaster operates under a British licence. If the Media Authority were of the opinion that VT4 had been given a license in breach of the British or European legislation, the Media Authority would have had to start proceedings against the British authorities, or at the European level. But the Media Authority had no competence to take unilateral steps against VT4. The judgment of the State Council has suspended the decision of the Flemish Media Authority, which means that VT4 can continue to be transmitted by cable-operators in the Flemish Community. The State Council is expected now to decide soon on the final annulment of the decision of the Flemish Media Authority. Meanwhile, the Flemish Authority decided to continue the proceedings between VTM and VT4.

Raad van State 25 November 1999, VT4 Limited vs. Vlaams Commissariaat voor de Media, nr. 83.639. See also the Annual Report of the Flemish Media Authority: Vlaams Commissariaat voor de Media, Jaarverslag 1999, Brussel, 2000.

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