[CH] No Right to Airtime

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The Eidgenössisches Departement für Umwelt, Verkehr, Energie, Kommunikation (Federal Department for Environment, Transport, Energy and Communication - UVEK) has dismissed a complaint by the Helvetia Nostra organisation against the public service TV station SRG SSR idée suisse. It ruled that the broadcaster's refusal to report the presentation of a cantonal petition for a referendum was compatible with the freedom of expression protected by Article 10 of the European Convention on Human Rights (ECHR).

In October 1997, Helvetia Nostra held a press conference, announcing that a petition entitled "Sauver le pied du Jura" had been presented in the Waadt canton. Even though a journalist from the Swiss TV station SSR had interviewed the President of the organisation at the press conference, the presentation of the petition was not reported subsequently on SSR.

The UVEK decided that the freedom of expression enshrined in Article 10 of the ECHR did not justify any claim for specific information to be disseminated by a broadcaster (the "right to airtime"). In this case, there was a conflict between the freedom of expression of the Helvetia Nostra organisation and the programming independence of SSR, which is also protected by Article 10 of the ECHR. The balance of interests lay in the broadcaster's favour. The decisive factor was that SSR had not categorically refused to report the cantonal petition. It had only failed to report its presentation. SSR had already reported the start of the collection of signatures and, throughout the complaint proceedings, had repeatedly stressed its intention to report on how the petition was dealt with in Parliament.

In the UVEK's view, a TV channel could not be forced to report something as long as it exercised its programming independence in accordance with journalistic principles. Helvetia Nostra's original complaint to the Unabhängigen Beschwerdeinstanz für Radio und Fernsehen (Independent Complaints Authority for Radio and Television - UBI) had been upheld. At the request of SRG SSR idée suisse, the Bundesgericht (Federal Appeal Court) had quashed the UBI's decision, since the latter authority was only responsible for programmes that had actually been broadcast. The Court referred the case to the UVEK, which has now dismissed Helvetia Nostra's complaint.

The UVEK's decision may be challenged in the Federal Appeal Court.

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