

[FR] Compliance of a CSA Sanction with Article 10 of the ECHR

IRIS 2002-10:1/12

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For the first time to our knowledge, the Conseil d'État has been called on to determine whether a sanction imposed by the CSA (Conseil supérieur de l'audiovisuelthe audiovisual regulatory body) complies with Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The CSA had formally ordered a radio station to abide by its undertakings to broadcast a programme of local interest in accordance with its agreement, which stated that the licence-holder undertook to broadcast a daily programme of local interest lasting 23 hours 30 minutes, excluding advertising. Monitoring carried out under the auspices of the radiophonic technical committee had shown that this undertaking was not being respected and that the situation continued to obtain. As the formal order to comply had had no effect, the CSA decided to suspend the station's authorisation to broadcast for one month, and it was this decision that the Conseil d'État was being asked to quash. In support of its application, the radio station claimed that the sanction had been imposed in violation of the principle of its right to defend itself. However, the Conseil d'État held that since the formal notice listed both the occurrences that were the source of the complaint and the sanctions applicable in the event of the irregularities continuing to obtain, the radio station could have made its comments known by letter and was therefore not in a position to claim a violation of Article 6(1) of the European Convention on Human Rights. Furthermore, since the decision to impose a sanction had been made on the basis of the agreement between the radio station and the CSA, it could not be claimed that the radio station was not aware of the principle of the legality of the misdemeanours and the penalties. Lastly, in view of the gravity of the station's shortcomings and their repetition, even after formal notice had been sent, the Conseil d'État held that the sanction imposed was not excessive and could not be deemed to have been made in violation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The application to quash the decision to suspend the radio station's authorisation to broadcast for one month was therefore rejected.

Conseil d'Etat (5e et 7e sous-sections), 29 juillet 2002, Association Radio Deux Couleurs

Conseil d'État (5th and 7th sub-sections), 29 July 2002, Association Radio Deux Couleurs

