[BE] Modifications to the Broadcasting Act regarding the Competences of the Media Authority and the Right of Reply

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By its Decree of 4 June 2003, the Flemish Parliament has retransferred the competence on licensing of radio broadcasters to the Flemish Government. The licensing of private radio stations in the Flemish Community was transferred in 1998 to the Vlaams Commissariaat voor de Media (Flemish Media Authority) as a depoliticization of the procedures of radio licensing, which until 1998 were decided upon by the Flemish Government and the Minister responsible (see IRIS 1998-9: 9). Recent practice however and new developments in policy are the bases of the decision to retransfer the decision making role on private radio licensing back to the political level of the Government. The Media Authority only has a preparatory and advisory role with regard to the licensing of local, regional and commercial radio stations in the Flemish Community, as the final decision lies from now on with the Flemish Government. The Media Authority no longer has the competence to suspend or revoke the radio licenses awarded by the Flemish Government. The licensing of private television broadcasters however is still under the full competence of the Flemish Media Authority.

Another innovation in the Flemish Broadcasting Act of 1995 is the integration of the provisions on the right of reply. A federal law of 23 June 1961, amended in 1977, guarantees the right of reply both in the print media and on radio and television in Belgium. By its Decree of 18 July 2003 the Flemish Parliament has decided to integrate the legal framework on the right of reply on Flemish radio and television into the Flemish Broadcasting Act, modifying at the same time some of the provisions on the audio-visual right of reply. Any natural person or legal person whose reputation is damaged by inaccurate statements in a broadcasting programme has a right of reply (" recht van antwoord ") according to Articles 116 vicies semel 116 doudetricies of the Broadcasting Act. The request for a right of reply can be sent, within a period of a month, by letter, fax or email to the editor-in-chief or any other person who has the authority to decide on the broadcasting of the reply. The president of the Court of First Instance, in a summary proceeding, can decide if a request for a right of reply is in accordance with the law and can order a broadcasting organisation to issue a reply it refused. The Decree also introduces a right of announcement (" recht van mededeling ") which gives every person whose name is mentioned or picture is shown as a suspect or accused in a criminal case, the right to an announcement referring to his or her acquittal (" vrijspraak ") or decision of non-prosecution ("

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buitenvervolgingstelling "). This special right of reply sui generis is to be considered as strengthening respect for the presumption of innocence.

Decreet Vl. Parl. 4 juni 2003 houdende wijziging van sommige bepalingen van de decreten betreffende de radio-omroep en de televisie, gecoördineerd op 25 januari 1995, wat de erkenning van particuliere radio-omroepen betreft, B.S. 19 juni 2003 Moniteur , 19.06.2003

Decree of the Flemish Parliament of 4 June 2003 amending some provisions of the Broadcasting Act 1995, on the licensing of private radio broadcasters, Moniteur of 19 June 2003

Decreet Vl. Parl. 18 juli 2003 houdende wijziging van sommige bepalingen van de decreten betreffende de radio-omroep en de televisie, gecoördineerd op 25 januari 1995, wat de invoering betreft van het recht op informatie via radio en televisie en houdende instelling van een recht van antwoord en een recht van mededeling ten aanzien van radio en televisie, B.S. 3 september 2003 , Moniteur 3 September 2003

Decree of the Flemish Parliament of 18 July 2003 amending some provisions of the Broadcasting Act 1995, on the right of reply and the right of announcement, Moniteur 3 September 2003

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