[FR] CSA Calls on Courts for Immediate Stop to Broadcasting by Unapproved Foreign Satellite Channel

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Aware that the CSA (Conseil supérieur de l'audiovisuel

audiovisual regulatory body) has no control over the Lebanese channel Al Manar, broadcast in France by Eutelsat, which offers a serial likely to be considered anti-Semitic (see IRIS 2004-4: 10), the public authorities have reworded the references to audiovisual services in Article 42-10 of the Act of 30 September 1986 (see IRIS 2004-8: 8). Thus under Article 82 of the Act on electronic communications and audiovisual communication services of 9 July 2004, the CSA's Chairman may appeal to the Courts "to put a stop to a satellite operator broadcasting a television service falling within France's competence where the programmes infringe at least one of the principles referred to in Articles 1, 3(1) or 15" of the Act (respect for human dignity, upholding public order, protection of minors, etc). This new provision is intended to enable the national authorities, and more particularly the CSA, to prevent such infringements occurring in the case not previously covered by the corresponding legislation of a television service broadcast in France using satellite capacity falling within the competence of France that does not hold any approval or authorisation from the national authorities.

On the basis of its new prerogatives, the CSA therefore applied to the Conseil d'État to have it put an immediate stop to Al Manar's broadcasting, on the grounds that some of its programmes infringed at least one of the principles referred to in Articles 1, 3(1) and 15 of the Act of 30 September 1986. In an order handed down on 20 August, the Conseil d'État noted that the Eutelsat satellite constituted "satellite capacity falling within the competence of France" within the meaning of Article 43-4 of the Act of 30 September 1986. The company's broadcasting of Al Manar's programmes therefore led to the channel being considered as a "television service falling within the competence of France", and such broadcasting could therefore, where appropriate, give rise to application to Eutelsat of the provisions of Article 42(10). However, the Presiding Judge of the Disputes Section of the Conseil d'État noted that the disputed channel had requested the conclusion of an agreement with the CSA on the eve of the hearing. If this request were met, Al Manar's situation in respect of Articles 1, 3(1) and 15 of the Act of 30 September 1986 would be regularised, and this point had to be taken into account in the Court's deliberations. The Conseil d'État decided it was appropriate to distinguish between the various scenarios that could follow the request. Thus it was only if full approval application were not presented to the

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CSA by 1 October or if the application were rejected that Eutelsat would be given two months to stop broadcasting the disputed television services on its satellites.

Conseil d'État (ordonnance de référé), 20 août 2004, CSA

Conseil d'État (order in an urgent matter), 20 August 2004, CSA

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