[FR] Eutelsat Must Stop Broadcasting Al Manar TV

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Does the order in an urgent matter issued by the Conseil d'État on 13 December 2004 ordering Eutelsat to stop broadcasting the television channel Al Manar mark the end of the channel being broadcast in Europe? This is not the first time that the regulatory authority (Conseil supérieur de l'audiovisuel - CSA) has applied to the Conseil d'État, on the basis of the new Article 42-10 of the amended Act of 30 September 1986 introduced by the Act of 9 July 2004, on this subject, because of the Lebanese channel's broadcasting of programmes of an anti-Semitic nature (see IRIS 2004-9: 11). The television channel had seemed to want to "fall into line" with the national regulatory prescriptions, as demonstrated by its signature of a very strict agreement with the CSA on 19 November. Less than two weeks later, however, the CSA, identified a number of broadcasts that constituted serious breaches of the agreement, and served notice on it to abide by its obligations. The CSA also referred the matter urgently once again to the Conseil d'État (see IRIS 2005-1: 12). This second order is instructive, firstly because it sets out clearly the scope of the new procedure made available to the CSA's Chairman by Article 42-10 for applying to the courts in an urgent matter against operators of satellites broadcasting extra-European channels. The company that produces Al Manar TV claimed in its defence that the signature of the agreement with the CSA barred use of the procedure in an urgent matter. It also claimed that, since the CSA had instigated administrative sanction proceedings (service of official notice) on the basis of Articles 42 to 42-7 of the Act of 30 September 1986, an urgent court case could not be brought in respect of the same facts. The Conseil d'État, however, considered that, on the contrary, proceedings in an "urgent audio-visual matter" - the scope of which was broadened by the Act of 9 July 2004 - could be brought, regardless of whether or not the television operator had signed an agreement with the CSA. Similarly, the two procedures (CSA administrative sanction and urgent court proceedings), which had different purposes, could be instigated simultaneously. After setting aside the procedural arguments put forward by the TV channel, the Conseil d'État noted that, despite the warnings issued by the CSA and after its signature of the agreement with the CSA, Al Manar had continued to edit a number of broadcasts with content that was blatantly in contradiction with the provisions of Article 15 of the Act of 30 September 1986 prohibiting the broadcasting of any programme containing incitement to hatred or violence on the basis of religion or nationality. In view of the risk this constituted for maintaining public order, the presiding officer of the Conseil d'État 's disputes board therefore enjoined the company Eutelsat, whose satellite capacity was

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being used for broadcasting Al Manar, to stop such broadcasting within 48 hours. At the same time the CSA, noting that the official notice it had served on the channel to abide by its agreed undertakings had had no effect, embarked on a sanction procedure that resulted in the termination of the agreement on 17 December 2004. The following day, the United States announced that it was classifying the channel as a terrorist organisation, and as a result it was immediately removed from American screens.

Conseil d'Etat (ordonnance de référé), 13 décembre 2004, CSA c/ Al Manar TV Libanese communication group) et autres

http://www.legifrance.gouv.fr/

Conseil d'État (order in an urgent matter), 13 December 2004, CSA v. Al Manar TV (Lebanese Communication Group) et al.

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