[NO] Case Concerning Political Advertising on Television

IRIS 2005-7:1/26

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In the autumn of 2003, the Norwegian Media Authority sanctioned the national commercial broadcaster, TV2, and a local television company with fines for having broadcast political advertising in breach of the ban. The Norwegian Broadcasting Act prohibits political and religious advertising on television. The advertising in question was for a political party in connection with an election campaign.

The local broadcaster brought the case before the municipal court, claiming that the Authority's decision, and thus also the ban, represented an infringement of the fundamental right of freedom of speech as laid down in the Norwegian Constitution and in Article 10 of the European Convention on Human Rights. The Court upheld the decision made by the Authority.

The case was then brought before the Norwegian Supreme Court, which handed down its ruling in November 2004. The Supreme Court found that the authority's decision did not represent an infringement of Section 100 of the Norwegian Constitution with regard to freedom of speech. The Supreme Court also made an assessment in relation to Article 10 of the European Convention on Human Rights, and found that the decision was not in violation of the Convention. The Court also considered the ECHR judgements VgT v Switzerland and Murphy v Ireland (see IRIS 2001-7: 2 and IRIS 2003-9: 3). The Norwegian Supreme Court's ruling was not unanimous; one of the five judges cast a dissenting vote.

In May this year, the broadcaster in question, TVVest, announced that the case has been brought before the European Court of Human Rights.

At the end of 2004, a publicly-appointed commission submitted a proposal to relax the general ban on political and religious advertising as laid down in the Norwegian Broadcasting Act, choosing instead to introduce a time-limited exception to the ban before elections.

The proposal also contained more detailed alternatives regarding limitations on the amount of advertising. These limitations were based on both cost and time. The Norwegian Ministry of Culture and Church Affairs announced this spring that it will also circulate for public comment an alternative proposal, i.e. political advertising will only be banned for a limited period before elections. A legal proposition on this matter is expected later this year or next year.

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http://www.smf.no/sw2098.asp

Supreme Court Ruling on Political Advertising on TV, 12 November 2005

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http://odin.dep.no/kkd/norsk/dok/hoering/paa_hoering/043061-080086/dok-bn.html

Consultation document on Political Advertising on TV

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