[FR] Handling of Election News in the Audiovisual Media

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Amélie Blocman
Légipresse

In accordance with Articles 1, 3 and 13 of the Act of 30 September 1986, it is the role of the audiovisual regulatory body (*Conseil Supérieur de l'Audiovisuel* - CSA) to ensure that radio and television services abide by the principle of the equitable treatment of candidates during the run-up to an official election campaign. On 7 November 2006 in this respect, the CSA adopted a recommendation concerning the French presidential election on 6 May 2007.

The recommendation applies to all television and radio services, and defines three separate periods for handling election news. Firstly, a preliminary period, running from 1 December 2006 to the eve of the publication of the list of candidates drawn up by the Constitutional Council. During this first period, the CSA requires radio and television services to apply the principle of equity to both the speaking time and the airtime allowed to declared or presumed candidates. "Equity" is defined by the CSA according to two criteria, which are firstly the representativeness of the candidates, assessed by taking into account, in particular, their results in the most recent elections and secondly their ability to demonstrate specifically their stated intention of standing for election. The second - "intermediary" - period then runs until Sunday, 8 April 2007. During this period the CSA requires the application of the principle of equality for the speaking time allowed to the candidates and the principle of equity for their airtime. Lastly, during the campaign period, from Monday, 9 April 2007 to the second round of voting on Sunday, 6 May 2007, the recommendation requires the principle of equality to be applied to both the candidates' speaking time and their airtime. Corinne Lepage, former Minister for the Environment and leader of a new ecologist party who has declared her intention to stand in the election, referred to the *Conseil d'Etat* on an urgent matter for the suspension of the CSA's recommendation, which she criticises on two points. Firstly, she claims that the CSA seriously infringes the diversity of the expression of currents of thinking and opinion by taking 1 December 2006 as the start of the preliminary period. She believes the date used should have been 1 April 2006, the date used by the legislator in calculating expenditure incurred with regard to the election. The *Conseil d'Etat* rejected this argument, however, on the grounds that the provisions referred to by the complainant to justify the date of 1 April were not effective and that the CSA's recommendation was not marred by any evident illegality in setting 1 December as the starting point for the preliminary period. Ms Lepage also questioned the justification of the two criteria selected by the CSA to define the principle of equity that was to be observed in handling election news.

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The *Conseil d'Etat* noted that representativeness could be evaluated by taking account more particularly the results obtained by a candidate or his/her political group at the most recent elections. Consequently, by applying these criteria, and supposing that this definition - which implied a margin of appreciation -, it was possible to take into account the celebrity of the candidates or the response to their candidacy, the CSA's recommendation was not marred by any evident illegality. The application brought by Corinne Lepage was therefore rejected and the media are required to implement the CSA's recommendation.

Conseil d'Etat (ordonnance de référé), 11 janvier 2007 – Corinne Lepage

http://www.juriscom.net/documents/tginanterre20061215.pdf

Conseil d'Etat (order issued in an urgent matter), 11 January 2007 - Corinne Lepage

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