[BE] Can Newspapers Refuse to Publish Advertisements from an Extreme-Right Political Party?

IRIS 2007-8:1/35

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

In May 2007, the extreme-right, anti-immigration party *Vlaams Belang* (Flemish Interest - VB) started a lawsuit against all newspapers/publishing groups in the Flemish community in Belgium. The newspapers had all refused to publish the political advertisements of VB in the pre-election period, a few weeks and days before the federal elections of 10 June 2007. The newspapers did, however, publish advertisements from other political parties. Only one newspaper was not targeted by VB: the left-wing orientated *De Morgen* (the VB probably did not even consider the possibility of having an electorate amongst the readers of *De Morgen*). The case was brought before the president of the Brussels Commercial Court on the basis of a summary proceeding as provided in the law on fair trade practices and consumer protection. According to the VB, the refusal qualified as a kind of unfair trade practice and violated the anti-discrimination law. The party requested the court to order the newspapers *Het Laatste Nieuws* , *De Tijd* , *De Standaard* , *Gazet van Antwerpen* and Metro to publish an advertisement of VB before 9 June 2007, ultimately one day before the federal elections.

As essential background information to this case, it is important to know that in 2004 the Court of Appeal of Ghent, later confirmed by a judgment of the Belgian Supreme Court (Cour de Cassation), found that the *Vlaams Blok* was a party that violated the anti-racism law by manifestly and repeatedly publishing incitement to racism and xenophobia in its publications. A few months later, the *Vlaams Blok* changed its name to *Vlaams Belang* . However, it is still made up of the same politicians and holds the same political discourse. An application filed by the VB before the European Court of Human Rights arguing that the conviction of its organisation had violated its freedom of political expression, was declared inadmissible by the European Court of Human Rights (5 May 2006).

In a judgment of 4 June 2007, the president of the Brussels Commercial Court partly rejected and partly accepted the request made by *Vlaams Belang* . Three newspapers had argued that their refusal to publish the ad was based on political or ideological reasons, *inter alia* referring to their editorial manifest (Oxford Manifest for *Het Laatste Nieuws*), or corporate charter (*De Tijd*), or democratic profile regarding respect for democracy, human rights, tolerance and minorities. They argued *in concreto* , referring to these corporate values and mission statements and citing the racist and xenophobic discourse of *Vlaams Belang* , that

© European Audiovisual Observatory (Council of Europe) 2026

their freedom of expression also included their right not to publish the advertisements of *Vlaams Belang* . The Court accepted these arguments as legitimate reasons to refuse the advertisement of *Vlaams Belang* in the case of *Het Laatste Nieuws* , *De Tijd* and *De Standaard* . Two newspapers however had only invoked practical and economic reasons and relied *in abstracto* on their right to freedom of expression, including the freedom not to publish. Their main argument was that the request by *Vlaams Belang* for an advertisement had come too late and that all advertising space was fully booked for the coming weeks. The President of the Court did not accept these as sufficient or pertinent reasons and considered this refusal as an unfair trade practice. Both newspapers, *Gazet van Antwerpen* and *Metro* were ordered to publish the advertisement as requested by *Vlaams Belang* , under normal price conditions. On 8 June 2007, both papers published the advertisement explicitly mentioning that this had been published because of the court order of 4 June 2007 but stressing that they nevertheless considered that they have the right to refuse the publication of an advertisement in the future.

From a legal point of view the judgment of 4 June 2007 does not contain a thorough or substantiated motivation, typical in this kind of summary proceedings. The basic idea of the judgment nevertheless supports the possibility of refusal of political advertising by newspapers that consider a political party and its programme or discourse as being at odds with their basic corporate values on democracy, human rights, minorities and tolerance.

Voorzitter Rechtbank van Koophandel Brussel, 4 Juni 2007

http://docs.google.com/viewer?a=v&q=cache:aj60ZBgX2GEJ:diversiteit.be/diversiteit/files/File//Rechtspraak_jurisdiction/discriminatie_discrimination/2011/2007_06_04,%2520Kh.%2520Brussel.pdf+uitspraak+rechtbank+van+koophandel+te+brussel,+4+juni+2007&hl=nl&gl=nl&pid=bl&srcid=ADGEESg6Xv1ZrdZCLW2pYKsP_jqmscI4FOoqW_JzJ1FDl3h_WeZSTMzBwRF6I9bFfBf_7uQ6s77DZV0Y5mNMsvfYUQ8E4b9kNASIkQURvJWqilTQNylGGtBx1_AeMU50-9bQh73tezdY&sig=AHIEtbQUqa4Uw9OpR-fQtG7pfLyJ2dSCZg

President of the Commercial Court of Brussels, 4 June 2007

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026