[LV] Administrative Court Requires National Broadcasting Council to Provide Substantive Responses to Complaints

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On 3 October 2007 the *Administratīvā rajona tiesa* (Administrative County Court) of the Republic of Latvia adopted a judgement, in which it recognised an action of the National Broadcasting Council as being inconsistent with the law, and requested that the Council review the substance of the matter. The judgement is particularly interesting because for the first time the way in which the Council should react and respond to complaints of the public with respect to activities of broadcasting companies has been discussed.

The brief facts of this particular case are as follows: LNT, one of the major private broadcasting companies of Latvia, had broadcast information about a person R. The person considered this information to be false and defamatory, and requested that LNT revoke it and broadcast a respective counterstatement. After this request was fulfilled by LNT, R. asked the broadcaster to provide him with a copy of the counterstatement that had been broadcast. LNT agreed, however, demanding that R. cover the expenses for the copy in the amount of LVL 1,253.04 (around EUR 1,782.91). R. considered this sum to be unreasonably high and submitted a complaint to the Council, requesting that it determine that LNT should provide him with the copy of the broadcast and ensure that LNT requests a compensation not exceeding its administrative expenses, and to also set up penalties provided by law for the failure of LNT to fulfil the aforementioned duties. The Council replied that it had examined the facts mentioned in R.'s complaint and that it did not find a breach of the Radio and Television Law. In addition it noted that the law does not require LNT to issue a copy of the broadcast upon R.'s request. R. considered that the reply of the Council did not provide a motivated substantial response and submitted the application to the Court.

The Court was of the opinion that R.'s application has a legal basis and that the Council had failed to fulfil its duties as required by the Radio and Television Law, and the Administrative Procedure Law.

At first, the Court underlined that the Council, being a public institution, was obliged to initiate administrative proceedings as a consequence of R.'s complaint in order to determine whether there was a basis to apply any administrative penalties on LNT. The Court assessed that an administrative procedure had been

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initiated. However, secondly, the Court noted that the Council was obliged to adopt its decision within these administrative proceedings. The Court stated that the case file of the Council did not provide evidence that the Council had performed any examination of the facts mentioned in the complaint and that according to the documents the Council had not decided on the complaint in its substance. Therefore, the failure of the Council to adopt a decision within the administrative proceedings and to provide motivated substantial answers was considered as a breach of the law.

In addition, the Court indicated that R.'s claim to be provided with copies of the broadcast in return for a certain price has no legal basis, and that therefore the refusal does not constitute any administrative violation. Therefore the Council would not have been able to request LNT to issue a copy of the broadcast to R. for a certain price.

As a result of the judgement, the Court requested that the Council adopt a substantiated decision with respect to R.'s complaint within one month after the date of the judgement, or to provide R. with a well-founded answer within 15 days after the date of the judgement.

The judgement is not final and may be appealed by either of the parties.

Administratīvā rajona tiesa, 03/10/2007

http://www.tiesas.lv/files/AL/10_2007/03_10_2007/AL_0310_raj_A-1989-07_2.pdf

Judgement of the Administrative County Court of the Republic of Latvia of 3 October 2007

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