[FR] Appeal against the Bill to Reform the Audiovisual Scene

IRIS 2009-3:1/14

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The bill - examined at length and copiously amended at its first reading in the National Assembly and the Senate - passed through the joint mixed committee at the end of January. As a result of this examination, provided for in the urgent procedure adopted by the Government for passing the Act, the bill was ratified in the form it was submitted to the global vote of each assembly in the course of the following days. The package was finally adopted on 4 February 2009. Two types of appeal have already been lodged against the texts adopted.

Firstly, opposition members of the Senate have called on the Conseil d'Etat to suspend the decision to abolish advertising after 8 p.m. adopted by the board of directors of France Télévisions at the request of the Minister of Culture, who was concerned at the amount of time it was taking to get the bill through Parliament. The applicants felt that the Minister's letter to the chairman and managing director of the holding company constituted abuse of her position of power and an infringement of the principle of the separation of executive and legislative powers, denying the Senate's power of amendment. The Conseil d'Etat, deliberating under the urgent procedure, held that as the public-sector channels' advertising contracts and programme schedules could not be readjusted instantly, such a suspension would not have an immediate effect. It therefore rejected the application under the urgent procedure without examining the actual legality of the decision at issue, the merits of which could be the subject of examination.

In addition, sixty members of the National Assembly and sixty members of the Senate called on the Constitutional Council to examine the constitutionality of the Act. Their application referred more particularly to the method for appointing and revoking the chairmen of the public-sector channels - which would be contrary to the principle of independence -, the tax on IAPs - which could contravene the principle of equality in the face of taxation - and the abolition of advertising - which would cease to be covered by the Act, in relation to the procedure contested but in the end adopted by the ministry. The Conseil d'Etat is to deliver its decision before the end of February; if it endorses the texts, they could be promulgated in early March.

Conseil d'État (ord. réf.), 6 février 2009, N. Borvo et autres

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Conseil d'Etat (order under the urgent procedure), 6 February 2009, N. Borvo et al.

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