[FR] Air-time for the French President in the Audiovisual Media

IRIS 2009-5:1/24

Amélie Blocman
Légipresse

On 8 April 2009 the Conseil d'Etat delivered a noteworthy decision on the matter of the audiovisual media's treatment of air-time devoted to the French President in the light of the rules on political pluralism. The matter had been referred to the highest formation of the Conseil d'Etat by François Hollande, at that time the leader of the French Socialist Party, and Didier Mathus, a member of the French Parliament and a specialist in audiovisual matters; they called for the cancellation of a decision by the *Conseil Supérieur de l'Audiovisuel* (national audiovisual regulatory authority - CSA) which excluded the taking of presidential speeches into account in considering observance of political pluralism. According to Article 3 of the Act of 30 September 1986, one of the CSA's tasks is to lay down rules to ensure a balanced presentation of national political debate on radio and television. Thus in a ruling on 8 February 2000 it described as a "reference principle" the rule according to which "editors must observe a balance between the speaking time of members of the Government, that of members of the parliamentary majority, and that of members of the parliamentary minority, and ensure that they enjoy comparable programming arrangements". "Save where justified by current events, the speaking time of members of the parliamentary opposition may not be less than half the aggregate speaking time of members of the Government and the parliamentary majority." (This is referred to as the "three thirds rule".) Thus while speeches by the President and his collaborators are totted up by the CSA, they are not necessarily taken into account under the obligation of the "reference principle"; the applicant parties contested this, claiming that they should be treated in the same way as in calculating speaking time for the Government. Since the CSA refused to amend the rule, the parties concerned referred the matter to the Conseil d'Etat.

The Conseil d'Etat began by recalling that the CSA had a broad power of appreciation in laying down, under legal supervision, the rules for ensuring a balanced presentation of the national political debate in its entirety. It continued by stating that, in compliance with the constitutional organisation of powers, the French President did not speak in the name of a political party or grouping; his speaking time in the audiovisual media should therefore not be accounted as such. Nevertheless, because of his role, his speeches and those of his collaborators could not in principle and regardless of their content and context be regarded as being unrelated to the national political debate and, consequently, to

© European Audiovisual Observatory (Council of Europe) 2026

the consideration of the balance to be sought between the currents of political opinion.

The Conseil d'Etat therefore cancelled on the grounds of a mistake of law the CSA's decision to refuse in principle to take presidential speeches into account, although it did not itself define the rules that should be laid down, as this was a task for the CSA.

The CSA took note of the decision, and on 22 April 2009 invited the radio and television companies to take Presidential speeches into account from 27 April 2009 onwards, "if their content and their context fall within the scope of national political debate". Thus reactions to Presidential speeches falling within the scope of national political debate will not be included in the air-time allowed to the Opposition on condition that they are broadcast within two days, except in special circumstances. This is a provisional arrangement, and will be reviewed after the European Parliament elections in June. The CSA will then lay down the final rules applicable to the speaking time of the President and his collaborators.

Conseil d'Etat, 5e sous-section de la section du contentieux, 8 avril 2009, MM. Hollande et Mathus

http://www.conseil-etat.fr/ce/jurispd/index_ac_ld0911.shtml

Conseil d'Etat, 5 th sub-section of the disputes section, 8 April 2009, Messrs Hollande and Mathus

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026