[BE] *Vlaams Belang* not Discriminated against by Public Broadcaster

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In a decision of 24 February 2009, the *Vlaamse Regulator voor de Media* (Flemish Regulator for the Media - monitoring and enforcement of media regulation) considered a complaint filed by the *Vlaams Belang* (Flemish Interest - a political party with an extreme right signature in the Flemish Community) against the VRT (Flemish public broadcaster). According to the *Vlaams Belang* , the latter violated its obligation of impartiality and non-discrimination by not inviting a representative of the *Vlaams Belang* to an information programme ("Panorama"). In this programme, twelve so-called "wise men", from a broad range of political backgrounds, discussed the future of Belgium, a question with which this particular political party concerns itself in a very prominent manner.

The obligation of impartiality and non-discrimination is described in Article 111bis of the Flemish Media Decree (Article 39 of the new decree, see IRIS 2009-5: 8), which reads as follows: "§ 1. Every form of discrimination should be avoided in the programmes. The programmes will be structured in such a way that they cannot give rise to discrimination between different ideological or philosophical ideas. § 2. Information programmes, communications and programmes of a general information nature, as well as all information programme parts must be presented in a spirit of political and ideological impartiality". In its jurisprudence, the Flemish Regulator has established a guiding principle: programme producers enjoy wide professional freedom in selecting guests. Yet this freedom is not unlimited, in view of the above-mentioned obligation. If the broadcaster manages to justify the absence of a politician or a political party from an information programme in an objective and reasonable way (with an eye on subject matter and programme format), no partiality or discrimination, and hence no violation of Article 111bis of the Flemish Decree, occurs.

In the present case, the *Kamer voor Onpartijdigheid en Bescherming van Minderjarigen* (Chamber for Impartiality and the Protection of Minors) found the justification given by the VRT to be reasonable and objective. The purpose of the debate was to approach the theme from various points of view, rather than from a purely political one. With this objective in mind, the guests were selected not as representatives of a political party, but rather on the ground of their alleged professional familiarity with the subject. Given the subject's specificity, the invitation of, amongst others, active politicians does not give rise to objections in

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the view of the Regulator: during the debate, these politicians did not necessarily proclaim the political points of view of their respective parties, but rather pronounced their personal visions. Hence, the VRT did not violate its legal obligation of impartiality and non-discrimination.

B. Valkeniers & Vlaams Belang vs. VRT, 24 February 2009 (No. 2009/025)

http://www.vlaamseregulatormedia.be/beslissingen/2009/2009_025.pdf

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