[RU] Warning to Broadcaster Annulled

IRIS 2009-8:1/28

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On 2 June 2009 Basmanny District Court in Moscow took an important decision in a case taken by a broadcaster against the prosecutor's office. The court overruled a 22 August 2008 warning issued by the Basmanny Inter-District Prosecutor to the 2x2 television channel, owned by a Russian private ProfMedia holding company.

The 2x2 channel broadcasts via cable networks in Russia and in St. Petersburg over the air a 24-hour daily programme of cartoons for adults. Acting on complaints from private individuals the prosecutor's office ordered and obtained an expert opinion that claimed in particular that an episode titled "Mr. Hankey's Christmas Classics" from the "South Park" cartoon series (produced in the U.S. by Comedy Central) was extremist in the sense of the 2002 Federal Statute "On Counteraction of Extremist Activity" because it promoted hatred between religions. That served as the basis of the warning issued in accordance with the Federal Statute (see IRIS 2002-8: 15, IRIS 2007-1: 16, and IRIS 2007-9: 19). It is to be remembered that, by law, the activities of a mass media organization can be terminated if the warning is not appealed, or deemed illegal by the court, and also if the infringements are repeated within twelve months from the date of issue of the warning or new facts are discovered that prove the carrying out of extremist activity by the mass media organisation.

In addition, a separate criminal investigation into suspicions of excitement of religious strife was opened in the Basmanny court by the same prosecutor in September of 2008, and in a separate motion the prosecutors asked the court to declare the series to contain extremist material that would involve criminal prosecution of those who disseminate it. After two new expert opinions had been provided that denied the existence of extremist materials in the cartoon series, the investigation was closed and the court motion was withdrawn by the prosecutor's office. However, that did not prevent the prosecutors from defending the legality of their warning before the court.

Based on the expert opinions the Basmanny District Court annulled the warning of the Prosecutor. It is a rare case when a warning to a media outlet is successfully overruled in court. The District Court decision was appealed by the prosecutor's office in the Moscow City Court. On 28 August 2009, the City Court upheld the lower court's decision.

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Decision of the Basmanny District Court of the City of Moscow of 2 June 2009 on Case # 2-1810/09

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