[SE] Supreme Administrative Court Does not Consider Poirot to Be a TV Series

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On 12 May 2011 Högsta Förvaltningsdomstolen (The Supreme Administrative Court) delivered a judgment in a case regarding the placement of commercial breaks in six episodes featuring the famous private investigator Poirot. The TV programmes had appeared on the Swedish nationwide television channel TV4.

The key issue in the case was whether the Poirot episodes (eight in total, but only six were subject to scrutiny), each of them about 1,5 hours long, constituted a TV series or movies made for television under the Radio and Televisions Act (RTL).

Granskningsnämnden för radio och TV (the Swedish Broadcasting Commission - GRN) had initiated proceedings against TV4. The GRN claimed inter alia that TV4 had violated section 8:4 of the RTL, since it had placed four commercial breaks during the TV programmes, whereas section 8:4 (2) of the RTL only allows commercial breaks every half hour in relation to movies made for television.

TV4 disputed the claim arguing that the Poirot episodes were a TV series under the RTL.

Initially the Court noted that the wording of section 8:4 of the RTL is more or less identical to that of Article 20.1 in the Swedish version of the Audiovisual Media Services Directive 2010/13/EU.

Then the Court turned to case C-245/01 of the European Court of Justice, which interprets the notion of “TV series” under the older Television Without Frontiers Directive. In view of that case the Court found that in order that a word be considered a TV series there must be a link between the TV programmes concerned.

The Court concluded that the Poirot episodes were based on different novels, without any common plot, and the episodes need not be watched in any particular order. According to the Court, the common features in the TV programmes were the principal character, Poirot, other characters also made repeat appearances in two or more episodes. Consequently, there was only a diluted link between the various Poirot episodes and they could not be considered to be parts of a TV series.

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The Supreme Administrative Court granted GRN’s request and imposed a special fee amounting to SEK 650, 000 on TV 4, accordingly.

Högsta förvaltningsdomstolens dom av den 12 maj 2011 i mål nr 7032-09

Judgment of the Supreme Administrative Court of 12 May 2011 in case No. 7032-09

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