

[DK] The ROJ TV case

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In 1999 two private limited companies, established under Danish law with the purpose of broadcasting TV programmes targeted at Kurdish people obtained a license from the Danish television authorities to broadcast television programmes via satellite from Denmark. In 2003 the companies obtained permission to establish a new television channel under the name of ROJ TV. The channel's headquarter was in Denmark where the editorial decisions were also taken.

In the following years ROJ TV was several times accused of broadcasting programmes that promoted the Kurdish liberation movement PKK, by many regarded as a terrorist organization (for more reporting on Roj TV see IRIS 2011-9/4, IRIS 2011-7/3, IRIS 2010-4/16, IRIS 2009-7/12, IRIS 2008-8/16 and IRIS 2005-7/17). The Danish Radio and TV Board, the Danish supervisory authority within the broadcasting area, three times (in 2005, 2006 and 2008) assessed whether ROJ TV had violated the prohibition in the Broadcasting Act regarding incitement to hatred based on race, sex, religion and nationality. Each time the Board concluded that the provision had not been violated. Hence, there was no basis under the Broadcasting Act for revoking ROJ TV's broadcasting license.

In September 2010 the prosecution initiated criminal proceedings against the two companies behind ROJ TV, charging them of promoting a terror organization in violation of s 114-114d of the Criminal Code.

The City Court of Copenhagen, in a judgment of 10 January 2012, found that the prosecution had proved that PKK was a terrorist organization, and that the defendant companies in the period from 7 February 2008 to 10 September 2010 through programmes broadcasted on ROJ TV had promoted PKK and its activities. The Court put special emphasis on the fact that the TV channel in various programmes in a one-sided and uncritical way had communicated PKK's messages, including requests for rebellion and for joining the PKK.

The punishment was a fine assessed at approx. EUR 8,700 for each of the companies. In assessing this fine the Court underlined that it regarded ROJ TV to be financed by and under the influence of PKK.

The City Court did not, however, find in favour of the prosecution's charge that the defendant should be deprived of the right to broadcast according to s. 79 of the Criminal Code. The simple reason was that the provision does not apply to

companies.

Moreover, the Court did not agree with the prosecution that the license to broadcast should be confiscated, because the rules regarding confiscation in s. 75 of the Criminal Code only apply to physical objects, not services such as a license to broadcast.

ROJ TV has appealed the judgment to the High Court.

Københavns Byrets dom af 10. januar 2012 i sag nr. 3-22041/2010

The City Court of Copenhagen's judgment of 10 January 2012 in case 3-22041/2010

