[NL] Decision of the Council of State on Budget Cuts for Dutch Regional Broadcaster

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On 6 February 2013 the highest Dutch administrative court, the Raad van State (Council of State), decided on an appeal filed by the Dutch regional public service broadcaster “RTV Noord-Holland” regarding cuts to RTV Noord-Holland’s budget. RTV Noord-Holland is funded by the Province of Noord-Holland. In 2011 het college van Gedeputeerde Staten van Noord-Holland (Executive Board of the Province of Noord-Holland) informed RTV Noord-Holland that its budget for 2012 would be 10% lower than the previous year and that the real index, which was usually added to its budget to compensate for increases in costs, would not apply.

RTV Noord-Holland appealed the decision to the Executive Board. The Executive Board dismissed the appeal, after which RTV Noord-Holland appealed to the Court of Haarlem in 2012. The Court ruled that the decision of the Executive Board was not duly motivated and ordered the Executive Board to take a new well-motivated decision. However the Court did not rule on the budget cuts. RTV Noord-Holland subsequently appealed to the Council of State. The Council of State considered both the verdict of the Court of Haarlem as well as the newly motivated decision of the Executive Board.

In the appeal before the Council of State, RTV Noord-Holland claimed that the budget cuts violate Article 2.170 of the Dutch Media Act (Mediawet 2008). According to that Article, a Province has to provide funding for least one regional public service media-institution. The funding has to facilitate a high quality offer of media services and enable maintenance of the level of activities with regard to offering media services by regional public broadcasters as existed in 2004. The Council of State dismissed the appeal, declaring that the budget cuts are admissible, as Article 2.170 of the Dutch Media Act imposes the duty to maintain the high quality offer and activities of 2004, but not a duty to maintain the budget applicable in 2004. In other words, budget cuts are permissible if the level of activities is maintained at the level of 2004.

Other claims brought forward by RTV Noord-Holland included an alleged violation of administrative principles of sound administration and diligence and an incorrect imposition of the burden of proof. The Council of State rejected all grounds of appeal and upheld the renewed decision of the Executive Board of the Province of Noord-Holland.

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Raad van State, 6 februari 2013 LJN: BZ0700

http://zoeken.rechtspraak.nl/resultpage.aspx?snelzoeken=true&searchtype=kenmerken&vrije_tekst=bz0700

Decision of the Council of State of 6 February 2013, LJN: BZ0700

Rechtbank Haarlem, 29 maart 2012, LJN: BW0289

http://zoeken.rechtspraak.nl/resultpage.aspx?snelzoeken=true&searchtype=kenmerken&vrije_tekst=bw0289

Decision of the Court of Haarlem of 29 March 2012, LJN: BW0289

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