[SK] Violation of Human Dignity in Reality Show

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On 19 February 2013, the Supreme Court ("Court") confirmed the decision of the Council for Broadcasting and Retransmission of the Slovak republic ("Council") imposing a fine of 25,000 EUR on a major Slovak commercial TV broadcaster for violating human dignity in TV broadcasting.

In March 2012, the Council received a number of complaints regarding the reality show called "Extreme Families" that followed stories of atypical families. The complaints were aimed specifically at the story of the family with a disabled son, who sometimes had to be subtitled to be understood.

The broadcaster promoted "Extreme Families" as a show presenting unusual characters and families, which helps to solve various life situations (e.g., the main storyline in the abovementioned case was finding a wife for the son).

However, the authentic performances of the show's participants were accompanied by highly satirical and ironic commentaries of the "voice from the screen". After the evaluation of this programme, the Council came to the conclusion that the actual purpose of these comments was to mock the participants in order to shock viewers and thus raise the audience share.

In addition to the "positive" context of the show, the broadcaster also argued with the concept of a "scripted-reality show". To prove the fact that the participants took part in the reality show voluntarily and their performance was only acting, the broadcaster suggested summoning members of the respective family as witnesses. The broadcaster claimed that all participants had signed contracts in which they agreed to follow the instructions of the production team. Furthermore, however "real" the performance of the participants might have appeared to the viewers, it still would have to be considered as "acting performance" (which rules out the possibility of individual's human dignity violation).

The Council, however, concluded that the basic human right to respect the human dignity of the individual is irrevocable. This human right cannot be waived by contractual consent. The Council also stated that it is irrelevant if, and to what extent, the participants followed the production's instructions since they appeared and performed on the show as real people (with real names, in real locations, with real characteristics) and thus cannot be treated as artists performing as fictional characters.

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In its final evaluation, the Council rated the programme as a blatant violation of an individual's human dignity. The extent of the violation was severely aggravated by the fact that the harmed individual is a person with permanent disabilities and significantly lowered capacity to defend himself.

Before the court, the broadcaster argued that the Council was exceeding its authority by setting itself up as "moral authority". The Council replied that the ban of a straight-forward light-entertainment programme beyond public interest can be assessed as a light or at most moderate interference with the freedom-of-expression principle. On the contrary, the preservation of human dignity is of higher importance. The Supreme therefore affirmed the decision of the lower courts.

Najvyšší súd, 4Sž/20/2012, 19.02.2013

http://www.rvr.sk/_cms/data/modules/download/1369235358_4Sz_20_2012.pdf

Supreme Court's decision of 19 February 2013

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