European Court of Human Rights: Meltex Ltd v. Armenia

IRIS 2013-7:1/2

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On 17 June 2008, the European Court of Human Rights delivered a judgment in the case of Meltex Ltd and Movsesyan v. Armenia (see IRIS 2008-8/1). The Court held that there had been a breach of Article 10 of the Convention as the refusal by the Armenian National Radio and Television Commission (NTRC) to allocate a broadcasting license to Meltex, amounted to an interference with Meltex' freedom to impart information and ideas that did not meet the Convention requirement of lawfulness. The Court noted, in particular, that a procedure that did not require a licensing body to justify or motivate its decisions did not provide adequate protection against arbitrary interference by a public authority with the fundamental right to freedom of expression. In 2009 Meltex complained in Strasbourg that the Armenian authorities had failed to enforce the Court's judgment of 17 June 2008. In particular, relying on the Court's Grand Chamber judgment in the case of Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2) (see IRIS 2009-10/2), Meltex claimed that the refusal of the Court of Cassation in Armenia to reopen its case constituted a fresh violation of its freedom of expression under Article 10 of the Convention.

In its decision of 21 May 2013, the European Court of Human Rights reiterates that a judgment in which the Court finds a breach of the Convention or its Protocols imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction. The State must also take the appropriate general or individual measures required to put an end to the violation found by the Court and to redress so far as possible the effects of that violation. Subject to monitoring by the Committee of Ministers, the respondent State however remains free to choose the means by which it will discharge its legal obligations under the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment. The European Court itself does not have jurisdiction to verify whether a State has complied with the obligations imposed on it by one of the Court's judgments. The situation is different however when it concerns a new interference or a new issue. A "new issue" can result from the continuation of the violation that formed the basis of the Court's initial decision, but the determination of the existence of a "new issue" very much depends on the specific circumstances of a given case. In Meltex Ltd and Movsesyan v. Armenia, the Committee of Ministers ended its supervision of the execution of the Court's judgment of 17 June 2008, after the refusal by the Court of Cassation to reopen the proceedings. Although the Committee of Ministers had been informed that the Court of Cassation had

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dismissed the application to reopen the proceedings, in its resolution the Committee of Ministers declared itself satisfied with the individual and general measures taken by the Republic of Armenia to execute the Court's judgment. That being so, the Court finds that it has no jurisdiction to examine Meltex' complaint as it did not contain a new issue and therefore the application is incompatible *ratione materiae* with the provisions of the Convention. The Court rejected the application under Article 10 of the Convention as manifestly ill-founded.

Decision by the European Court of Human Rights (Third Section), case of Meltex Ltd. v. Armenia, Appl. nr. 45199/09 of 21 May 2013

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