[BG] Court Confirms High Sanction Due to Violation of Protection of Minors

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On 11 April 2013, the Administrative Court in Sofia City annulled a decision of the Sofia District Court and thereby confirmed a fine imposed by the Bulgarian regulatory authority Council for Electronic Media (CEM). The CEM had imposed a sanction of BGN 15,000 (approximately EUR 7,500) on the media service provider "BTV Media Group".

On 20 February 2012, the TV programme "The Slavi's Show" was broadcast as a repeat at lunch time between 12:30 pm and 1:30 pm. As regards this repeat, CEM found that there had been a violation of Article 17(2) of the Radio and Television Act (RTA) and No. 27 of CEM's Criteria for content assessment that might be harmful to, or pose a risk of harming, the physical, mental, moral and/or social development of children (see IRIS 2012-2/10). Those stipulations not only forbid the broadcasting of content that incites national, political, ethnic, religious or racial intolerance or shows undue violence, but also contain aspects relating to the protection of minors. Accordingly, potentially harmful content is to be broadcast at times when children are not usually the audience.

"The Slavi's Show" is a popular humorous night-time show that has been successful over decades. It is usually broadcast at night from 10:30 pm to 11:30 pm, because the dialogue between the host with the screen characters contains cynical, arrogant and vulgar speech.

The CEM accordingly imposed the above-mentioned fine, which was successfully contested before the Sofia District Court. This first-instance court found in its ruling of 7 January 2013 that the language used in the show is veiled and implied and thus not directed at children. According to the Sofia District Court, there is no violation of Art. 17(2) RTA in relation to the danger of harm to children and their development.

As the appeal court, the Administrative Court found in its ruling of 11 April 2013 that the language of the characters in combination with obscene gestures is not only potentially but actually harmful to the physical, mental, moral, and social development of children. Implications and veiled ways of expressing such harmful content does not change this perception, since children are especially vulnerable and are not able to distinguish between literal and implied statements, however

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sarcastic or ironic they may be. Since the show is successful with a popular host and screen characters, children tend to imitate, reproduce and discuss the topic in a way that does not correspond to their physical, mental or moral state of development. That may adversely affect each aspect of their upraising. The Court also found that the young audience is exceedingly vulnerable since the repeat was broadcast at a time of day of no parental supervision (working hours of parents), which makes the viewing of the show not subject to control.

According to Art. 126(1) RTA, the fines for violations range from BGN 3,000 (approximately EUR 1,500) to BGN 20,000 (approximately EUR 10,000). The amount of the fine at issue is one of the highest in the recent years of CEM's regulatory practice.

Решение № 2396 от 11 април 2013 г. на Административен съд - София град

http://www.cem.bg/cat.php?id=173

Decision no. 2396/2013 of the Administrative Court Sofia City of 11 April 2013

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