[FR] Adoption of Legislation Reforming the Public Audiovisual Sector

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On 31 October 2013, the National Assembly definitively adopted new legislation and its implementing decree on the independence of the public audiovisual sector. As the texts were not adopted in exactly the same terms in both chambers when they were examined in July and early October 2013, and as it was decided to apply the accelerated procedure, a joint committee comprising seven members of the National Assembly and seven members of the Senate met on 15 October 2013 to propose a joint version. This was speedily approved by the Senate on 17 October 2013, and sent to the National Assembly for final adoption.

The prime purpose of these texts is to revert to the law as it stood before the 2009 reform, giving back to the audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) the task of appointing the presidents of the public-sector audiovisual companies. Under the new legislation, the CSA becomes "an independent public authority with legal personality", and will be able henceforth "by a motivated decision" and "by a majority of its members" to terminate the terms of office of the current presidents of the public-sector audiovisual companies. The number of members of the CSA is also reduced, from nine to seven. The French President, who previously appointed three members, will now only designate the president of the institution. The Presidents of the National Assembly and the Senate will each designate three members, in accordance with a three-fifths majority opinion from the Parliament's Cultural Affairs Committees. The new law also aims to strengthen the economic regulatory power of the CSA, which may henceforth allow a pay channel to switch to free-view status, after having "carried out an impact study", and in the light of the economic and financial viability of such a change, particularly with regard to resources from advertising. The text adopted also validates the maintenance of daytime advertising on France Télévisions channels after 2015. Another change is that the CSA will be required to report annually on the development of concentration and diversity in the private audiovisual sector. Regarding production, channels that have provided most of the financing for a programme will henceforth be able to hold co-production rights. The text also reorganises the CSA's powers of sanction, separating the stages of prosecution and investigation, in accordance with European requirements. The CSA will remain responsible for pronouncing sanctions, but it will only be able to do so if the case is referred to it by a rapporteur whose independence vis-à-vis the members of the CSA and the audiovisual sector is guaranteed by his/her status and the way in which he/she is

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appointed. This new procedure is particularly welcome, as the Conseil d'État decided to submit a "priority question on constitutionality" to the Council on Constitutionality on the compliance of Article 42 of the Act of 30 September 1986 with the guarantees provided by the Constitution, invoking the lack of separation within the CSA of the functions of proceedings and judgment in respect of the failure on the part of service editors to meet their obligations. The Conseil d'État did indeed find that this lack of separation disregarded the principles of independence and impartiality in the exercise of the powers of sanction arising from Article 16 of the Declaration of the Rights of Man and of the Citizen.

Texte élaboré par la commission mixte paritaire annexe au rapport - projet de loi relatif à l'indépendance de l'audiovisuel public

http://www.senat.fr/leg/pjl13-075.html

Text drawn up by the joint committee appended to the report on the bill on the independence of the public audiovisual sector

Conseil d'Etat, 7 octobre 2013

http://arianeinternet.conseil-etat.fr/arianeinternet/getdoc.asp?id=198567&fonds=DCE&item=1

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