[SK] Sanction against current affairs programme with high representatives of executive dismissed

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Juraj Polak
Radio and Television of Slovakia (PSB)

On 25 March 2014, the *Rada pre vysielanie a retransmisiu* (Council for Broadcasting and Retransmission of the Slovak Republic) delivered a decision that formally terminated the legal proceedings taken against the public service broadcaster (PSB). The strictly formal decision (with no reasoning since no sanction was imposed) was however adopted based on the judgment of the Supreme Court ("Court") of 26 September 2013 which overruled the original decision of the Council in the given case.

In its original decision, the Council imposed a warning to the PSB for breaching the obligation to present a current affairs programme that featured three highest representatives of the executive (President, Prime minister, Speaker of the Parliament) objectively and impartially. The Council stated that even though the guests of the programme participated as representatives of the executive and not as members of the political party, the overall message received by the audience was the praise of the executive's activities. The prime minister and Speaker of the Parliament were both members of the leading party.

The Council stressed that when evaluating the performance of the government it is virtually impossible to distinguish the executive function from the affiliation to a certain political party, especially in the case of the prime minister and speaker of the parliament.

The PSB presented the programme as a room for the highest representatives of the executive to express their opinions to the pressing social issues (economical crisis, new toll system and the truckers' strike but also a failed police exercise where Irish airplane security arrested a Slovak civilian). In its decision, the Council highlighted that the programme lacked alternative points of view, especially in the parts of the programme where guests expressed mostly political statements. The PSB argued that the opinion diversity of the programme was preserved by the pre-recorded short messages from the political opposition (aired at the beginning of the programme) and by the active role of the programme's host.

The Council contended that the pre-recorded messages covered only a minimum part of the political messages expressed by the guests and even topics touched by these messages were in the end interpreted from the guests' point of view.

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According to the Council the host of the programme did not effectively use available means to preserve opinion diversity in the programme.

The Court acknowledged the PSB arguments about the character of the programme and agreed that the guests' appearance in the programme "was not strictly in political nature", moreover the President cannot be considered as a representative of any political party due to his unique position. The right to provide space for highest representatives of the executive to express their opinions on grave social issues is protected by Article 10 of the ECHR. The Court disagreed with the Council's opinion on the performance of the host of the programme. In the view of the Court, the host of the programme with his active approach balanced the overall message of the programme; thus preserved its objectiveness and impartiality. Therefore, the Court overruled and returned the decision to the Council for a new procedure. The Council, bound by the legal opinion of the Supreme Court therefore officially terminated the legal proceedings without imposing any sanction.

Najvyšší súd, 26/09/2013

http://www.justice.gov.sk/Stranky/Sudne-rozhodnutia/Sudne-rozhodnutie-detail.aspx?PorCis=F9468346-3B8B-4759-A00B-68593C80369E&PojCislo=7754

Decision of the Supreme Court of 26 September 2013

Rada pre vysielanie a retransmisiu, 25/03/2014

http://www.rvr.sk/_cms/data/modules/download/1400766687_RZK_016_2014.pdf

Council for Broadcasting and Retransmission of the Slovak Republic, decision of 25 March 2014

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