[FR] Conseil d'État approves appointment of new France Télévisions President

IRIS 2016-3:1/13

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On 23 April 2015 the audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) appointed Delphine Ernotte Cunci, former Director-General of Orange, as President of France Télévisions. To achieve greater transparency, the Act of 15 November 2013 amended Article 47-4 of the Act of 30 September 1986, giving the CSA the power to appoint the presidents of the public-sector audiovisual companies (France Télévisions, Radio France, and the company responsible for audiovisual broadcasting outside France); this power had previously been exercised by the French President. The CSA was keen to have a totally secret process, but the appointment of the new President of France Télévisions attracted considerable criticism. Contesting the appointment, two of the unions active within the company had even called for the CSA's decision to be annulled on the grounds that it had exceeded its powers.

In its decision, the Conseil d'État (the Council of State), as the highest administrative tribunal in France, recalled that under the terms of the first two paragraphs of Article 47-4 of the Act of 30 September 1986, "The Presidents of the company France Télévisions, the company Radio France, and the company responsible for audiovisual broadcasting outside France shall be appointed for a period of five years by the CSA, by the majority of its component members. The appointments shall be the subject of a reasoned decision based on criteria of competence and experience. Applications shall be submitted to the CSA, which shall assess them on the basis of a strategic project."

Regarding the selection procedure, the Conseil d'État noted that the appellants were not justified in claiming that the decision at issue had been the result of a flawed procedure because the CSA had not published the names of the candidates. There was in fact no statutory provision or regulation - including Article 47-4 of the Act of 30 September 1986 or any general principle of law - that required the CSA to publish the names of applicants or the names of those candidates selected for interview. Regarding the choice of the candidate, the Conseil d'État recalled that, in deciding to appoint Ms Cunci, the CSA had taken account of the competencies that she had been able to develop in the telecoms and digital sector, particularly in terms of managerial skills, before going on to consider the relevance of her application in the light of its strategic project, one of the main areas of which covered the digital development of the services offered by the France Télévisions group. Thus, by considering that the candidate met the

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two-fold criterion of competence and experience required of a President of France Télévisions, and by appointing her to the post by means of a decision that was sufficiently reasoned, the CSA had not committed a manifest error of appreciation, and the appeal for the disputed decision to be annulled was deemed inadmissible.

Conseil d'Etat, (5e et 4e sous-sect.), 3 février 2016, Syndicat national des professionnels de la communication et de l'audiovisuel CFE-CGC et autres

Conseil d'État, (5th and 4th sub-sections), 3 February 2016, CFE-CGC national trade union of professionals in the communication and audiovisual sectors, and others

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