[FR] Publication of the Act strengthening media freedom, independence and pluralism

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Amélie Blocman
Légipresse

The Act of 14 November 2016 “strengthening media freedom, independence and pluralism” has been published in the Official Gazette. Under the new Act, all journalists now have the right of refusal, which was previously only held by journalists working for public service broadcasters. To this end, a new Article 2bis has been added to the Act of 29 July 1881. Journalists will be entitled to “refuse to yield to any form of pressure, refuse to divulge their sources and refuse to endorse an article, programme, part of a programme or contribution whose form or content has been modified without their knowledge or against their will”. They cannot be forced to act contrary to their “professional beliefs” formed in accordance with the ethical charter of their employer. Such a charter must now be adopted by all media service providers, drafted jointly by management and journalists’ representatives. Any breach of a journalist’s right of refusal will be punished with the total or partial suspension of public funding for the company concerned.

The Act also requires all television companies who broadcast “political and general news programmes”, as well as mainstream radio services, to appoint “committees to monitor the integrity, independence and pluralism of information and programmes”. These committees can act on their own initiative or be consulted at any time by the governing bodies of the company concerned or by any individual. Particular attention is paid to the independence of committee members, which must be established prior to their appointment, and to the modus operandi of the committees themselves.

Furthermore, the national audiovisual regulatory authority (Conseil Supérieur de l’Audiovisuel - CSA) is given greater responsibility to ensure integrity, independence and pluralism. For example, it will be required to ensure that the agreements that it signs with media service providers include measures to guarantee respect for the principles enshrined in the new Article 2bis of the Press Act. Companies that infringe these principles over a period of several years will be excluded from the simplified broadcasting licence renewal system. The CSA will also have to ensure, a posteriori, that the agreements that it signs with media service providers guarantee respect for the right of refusal. It will need to ensure adherence to the logical numbering system of “national free-to-air terrestrial television services and the fair, transparent, consistent and non-discriminatory

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numbering of other television services in the programme lists of service distributors".

Finally, the Act contains a section concerning the transparency obligations of companies in the press and audiovisual sectors. It states that, each year, such companies must make the readers of their publications or online news services fully aware of the composition of its capital if any legal or natural person owns a holding of 5% or more, and of its governing bodies. The company must mention the identity and shareholding of each of its shareholders.

The Constitutional Council decided that the Act's provisions on reforms to the protection of the confidentiality of journalists' sources were unconstitutional.

Loi n° 2016-1524 du 14 novembre 2016 visant à renforcer la liberté, l'indépendance et le pluralisme des médias

https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033385368&dateTexte=20170111

Act no. 2016-1524 of 14 November 2016 strengthening media freedom, independence and pluralism

Conseil constitutionnel, décision n° 2016-738 DC du 10 novembre 2016

http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2016/2016-738-dc/decision-n-2016-738-dc-du-10-novembre-2016.148183.html

Constitutional Council, decision no. 2016-738 DC of 10 november 2016

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