[FR] CSA can require radio station operator to protect public safety

IRIS 2017-4:1/15

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In a ruling of 10 February 2017, the Conseil d'Etat (Council of State) confirmed that the national audiovisual regulatory authority in France, the Conseil supérieur de l'audiovisuel (CSA), had acted lawfully by issuing a formal notice to a radio station that had broadcast information likely to endanger the lives of people being held hostage during a terrorist attack.

On 9 January 2015, while terrorist acts were being committed simultaneously at different locations, the radio station Europe 1 had broadcast live information concerning police attempts to catch the terrorists responsible for the Charlie Hebdo massacre, who were in hiding in Seine-et-Marne. It had broadcast this information even though another terrorist had threatened to kill the hostages he was still holding in the Hyper Cacher supermarket in Vincennes unless the other terrorists were freed. Considering that the station had endangered the life of the hostages in Vincennes, the CSA issued the radio station operator with a formal notice requiring it, in accordance with Article 1 of the Law of 30 September 1986, to respect "elementary rules of caution designed to maintain public safety and safeguard law and order". The company requested the annulment of the formal notice and of the CSA's decision to reject its informal appeal.

The Conseil d'Etat ruled, in particular, that the CSA had not committed an error of law by considering that the broadcast of information likely to endanger the life of hostages was contrary to Article 1 of the Law of 30 September 1986, under which the freedom of communication may be limited if necessary in order to safeguard law and order. It did not think the rule infringed the European Convention on Human Rights (ECHR), which guarantees freedom of expression. Furthermore, by warning the complainant not to broadcast information in similar circumstances in the future in a decision that, incidentally, did not take the form of a sanction but was merely designed to remind the recipient of its obligations, the CSA had not interpreted the obligations resulting from Article 1 of the Law of 30 September 1986 in a way that was incompatible with Article 10 ECHR. Finally, the Conseil d'Etat noted that the facts stated in the formal notice were correct. The Europe 1 operator's request that the formal notice be annulled was therefore unfounded.

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Conseil d'Etat (5e et 4e sous-sect. réunies), 10 février 2017, Lagardère Active Broadcast

Council of State (5th and 4th subsections combined), 10 February 2017, Lagardère Active Broadcast

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