[FR] Any injured party may call on the CSA to apply its power to order compliance

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On 7 February, the Conseil d'Etat delivered an interesting decision, recalling that anyone may refer a failing on the part of an operator to the national audiovisual regulatory body (Conseil Supérieur de l'Audiovisuel - CSA) with a view to the CSA ordering it to comply with its obligations.

In the case at issue, a militant environmentalist notified the CSA of a number of failings he felt had been committed by the company Radio France with regard to the rules on broadcasting advertising messages laid down in Articles 32, 34 and 42 of its terms of reference which, at the time, did not authorise the company to broadcast advertising messages unless they were 'collective advertising and of general interest', and required the advertising messages to be clearly announced and identified as such. The complainant called on the CSA to embark on the actions within its remit in order to oblige the company to comply with its obligations. The complainant appealed to the Conseil d'Etat to cancel the implicit decisions by which the CSA refused to take the requested action against Radio France as provided for in Articles 42-10 and 48-1 et seq. of the Act of 30 September 1986, on the grounds that it had abused its powers.

The Conseil d'Etat recalled that under Article 48-1 of the version of the Act of 30 September 1986 in force at the time of the decisions at issue: 'The CSA may order the companies indicated in Article 44 to comply with the obligations imposed on them by legislation and regulations, and by the principles defined in Articles 1 and 3-1./ The CSA shall make public such orders to comply. The representative professional and trade union organisations in the audiovisual communication sector and the French national council for regional languages and culture (Conseil National des Langues and Cultures Régionales), the family associations recognised by the French national union of family associations (Union Nationale des Associations Familiales) and associations for the defence of women's rights may refer matters to the CSA so that it may instigate the procedure provided for in the first paragraph of this Article'.

The Conseil d'Etat, as the highest administrative tribunal, considered that apart from the organisations and associations referred to in the Act, 'anyone who notes behaviour on the part of an operator which infringes his/her interests is entitled to call on the CSA to exercise its power to issue an order to comply'. The CSA was

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therefore not in a position to reject the complainant's request on the grounds that he was not included on the list of parties authorised to refer matters to it under the Act of 30 September 1986.

The CSA will therefore have to reconsider the complainant's application for the issue of an order to comply to Radio France.

Conseil d'Etat (5e et 4e sous-sect. réunies), 7 février 2017, M. Avrillier

Conseil d'Etat (5th and 4th sub-sections jointly), 7 February 2017, Mr Avrillier

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