[FR] Conseil d’Etat upholds formal notice served on C8 after sexist sequence during Touche pas à mon poste

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In a decision adopted on 4 September 2017, the Conseil d’Etat pronounced on the first in a series of formal notices served this year by the national audiovisual regulatory authority (Conseil Supérieur de l’Audiovisuel - CSA) on the television channel C8 for a number of cases of inappropriate behaviour during the programme Touche pas à mon poste. The present case involved a sequence broadcast in October 2016 during which a commentator kissed an extra on the chest, even though she had expressed several times her unwillingness to submit to such behaviour. The matter was referred to the CSA by the Minister with responsibility for women’s rights after many complaints were received from viewers, and the CSA issued a formal notice to the channel to comply with the provisions of Article 3-1 of the Act of 30 September 1986, as it considered the sequence had expressed gender prejudice and had presented a degrading image of women. The Conseil d’Etat noted that the disputed notice had complied with the prescriptions contained in Article 42 of the Act of 30 September 1986. It also noted that the Act gave an exact definition of behaviour on the part of the CSA that would be considered contrary to the provisions of the 1986 Act (a prerequisite for pronouncing any sanction) in the event of similar behaviour being repeated. The judgment therefore set aside the argument that, because of the general nature of the terms of these legislative provisions, the CSA had ignored the principle of the proportionality of offences and penalties.

The Conseil d’Etat also noted that the sequence during which the commentator had kissed the young woman on the chest had been peppered with comments, including by the programme’s presenter, on the woman’s physical appearance. As the Conseil d’Etat recalled, editors of audiovisual communication services are required to remain in control of their broadcasts at all times, and the fact that a programme was broadcast live ought to result in particular vigilance. Although the channel claimed otherwise, the humorous nature of the programme did not justify a sequence that could only trivialise behaviour consisting of kissing a woman against her manifest wishes. The Conseil d’Etat therefore found that C8 had no grounds for calling for the cancellation of the formal notice served, which was legally justified.

This case is the first of four appeals brought by C8 before the Conseil d’Etat calling for the cancellation of sanctions imposed this year by the CSA in respect of Touche pas à mon poste.

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