[FR] Conseil d'Etat rejects appeal against removal of Radio France president

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Amélie Blocman
Légipresse

The Association de défense de l'audiovisuel public (Association for the defence of public audiovisual services - ADAP) asked the interim relief judge of the Conseil d'État to overturn the decision of the national audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) dated 31 January 2018 withdrawing the mandate of the Radio France President, Mathieu Gallet (see IRIS 2018-3/14). In support of its request, the ADAP argued that the contested decision constituted a serious and clearly unlawful violation of the freedom of audiovisual communication, firstly because it had no lawful grounds and, secondly, because its grounds breached the principle of the independence of the public media. Furthermore, it argued that the revocation procedure, assuming that it was a form of sanction, had not been based on any reason or identified misconduct that could justify such a sanction and ignored the non bis in idem principle, under which nobody can be tried or punished twice for the same offence. It added that the matter was urgent because the execution of the disputed decision could create an irreversible situation by triggering the appointment of a new President of Radio France. The ADAP pointed out that, under its statutes, it was required to "protect the independence of the public media, their strategy, management and editorial commitment" and to "support them, including by appealing against any decisions that are unjustified or that infringe upon their rights…".

However, the Conseil d'Etat ruled that the ADAP was not entitled to demand the suspension, nor the annulment, of the CSA's decision to withdraw the mandate of the President of one of the companies mentioned in Article 47-5 of the Act of 30 September 1986. The application was deemed inadmissible and rejected, in accordance with Article L. 522-3 of the Code of Administrative Justice. The Conseil d'État's decision conforms with established case-law. In 1977, it rejected, on the same grounds, an appeal by trade unions representing the staff of the Office de radiodiffusion-télévision française (French Radio and Broadcasting Office - ORTF), which had overseen public radio and television in the 1960s and 1970s, against a decree removing the ORTF President/Director General from office.

Conseil d'Etat (ord. réf.), 28 février 2018, Association de défense de l'audiovisuel public

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Conseil d'Etat (interlocutory order), 28 February 2018, Association de défense de l'audiovisuel public

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