[FR] CSA warning letter cannot be appealed

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On 26 July, the Conseil d'Etat issued a judgment that sheds some light on the means of contesting a warning letter sent to a television channel by the French national audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - the CSA). In the case concerned, the president of the CSA had been asked by anti-homophobia organisations to examine a sequence broadcast on the television channel Canal Plus during which someone had repeated a homophobic chant performed by Olympique de Marseille supporters. The CSA accordingly sent a letter to the chairman of the Canal Plus group informing it that it considered the sequence inappropriate and that it was "warning [it] against the repetition of such practices". The Canal Plus group asked the Conseil d'Etat to revoke the "CSA's decision to issue a warning" concerning the disputed sequence.

In its decision of 26 July 2018, the Conseil d'Etat ruled that the letter in question, which merely drew the recipient's attention to the improper nature of the incident, did not constitute a formal notice in the sense of Article 42 of the Law of 30 September 1986. It had no legal effect in itself and could not be regarded as an instrument likely to have a significant impact on or substantially influence the addressee's conduct. Concluding that the letter did not constitute a decision that could give rise to an appeal in respect of an alleged misuse of power, the administrative court therefore dismissed the Canal Plus group's request for the CSA's decision to be revoked.

Conseil d'État (5e ch.), 26 juillet 2018 - Groupe Canal Plus

Conseil d'Etat (5th chamber), 26 July 2018 - Canal Plus group

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