[FR] EUR 1 million fine imposed on a radio station for broadcasting sexist comments is lawful

IRIS 2018-10:1/11

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The company that runs the NRJ radio station lodged an appeal with the Conseil d'Etat seeking the cancellation of the decision of the Conseil Supérieur de l'Audiovisuel (the national audiovisual regulatory authority - CSA) of 22 November 2017 ordering it to pay a fine of EUR 1 million following the broadcasting of the programme "C'Cauet" on 9 December 2016. The disputed sequence was the result of a practical joke conducted over the telephone lasting about ten minutes, during which one of the programme's (female) commentators and an accomplice listener, presented as the sister-in-law of the person being tricked, led the latter to believe that they had had sexual relations with her partner.

The Conseil d'Etat found that the aim of broadcasting the telephone call had been to place a woman in a distressing situation by giving her to believe that her partner was habitually unfaithful to her - supposedly because of her weight problem. The sequence was based on the repetition, for nearly ten minutes, of statements implying that the woman should be judged solely on her physical appearance and should make every effort to maintain her appearance in order to satisfy her partner. Thus, the CSA had not been wrong in noting that the disputed sequence had been based on sexist stereotypes and a view of women that tended to reduce them to the role of sexual objects, in disregard of the provisions of Article 3-1 of the 30 September 1986 Freedom of Communication Act . The court also noted that, throughout the sequence, the women talking to the victim humiliated her with insults and unpleasant comments about her physical appearance. Furthermore, even though after several minutes the victim, in tears, was in a state of manifest distress and vulnerability, the programme's presenter allowed the situation to continue and delayed revealing the trick to her. By considering, in the light of these circumstances, that the disputed sequence had been humiliating for the victim and that its broadcasting had constituted a failure to observe the provisions of Article 2-6 of the radio station's broadcasting agreement, the CSA interpreted the facts of the matter correctly. It also noted that the fact that the victim had agreed to the sequence being broadcast was irrelevant to whether or not the CSA's view of the matter had been correct. Similarly, the fact that the comments at issue had been made by women and with humorous intent was also irrelevant. Lastly, the court found that the fine of EUR 1 million imposed on NRJ should not be considered excessive, given the gravity of the failings committed. There were therefore no grounds for calling for the cancellation of the decision at issue, and the appeal was rejected.

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Conseil d'État (5e et 6e ch.), 15 octobre 2018 - SAS NRJ https://www.legifrance.gouv.fr/affichJuriAdmin.do;jsessionid=3DDF8BA96CE2E925E

Conseil d'Etat (5th and 6th chambers), 15 October 2018 - NRJ S.A.S.

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