[FR] Conseil d'État confirms CSA's decision to terminate Radio France president's mandate

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On 31 January 2018, the national audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) withdrew the mandate of Radio France's president, Mathieu Gallet, following a first-instance criminal court judgment in which he was found guilty of favouritism while president of the French national audiovisual institute (Institut National de l'Audiovisuel - INA) between 2010 and 2014. The CSA judged that Mr Gallet's criminal conviction, even though it was under appeal, meant that keeping him in post was incompatible with the smooth functioning of the public audiovisual service. Mr Gallet asked the Conseil d'État to overturn this decision.

In its decision of 17 December, the Conseil d'État began by noting that the CSA had not imposed a sanction, but had acted on the basis of Article 47(5) of the law of 30 September 1986, which gave it regulatory powers to protect the smooth functioning of the public audiovisual service. In this context, anything that was likely to compromise their ability to carry out their mandate under conditions that ensured the smooth functioning of the company, their independence or the implementation of the project for which they had been appointed could legally justify the withdrawal of the mandate of the president of a public audiovisual company.

Therefore, the Conseil d'État ruled that a criminal conviction for failure to comply with the duty of probity, and the impact of such a conviction on public opinion, on account of their consequences for his ability to fulfil the role, justified the CSA's decision to dismiss Mr Gallet. It added that the CSA decision did not comment on the substance of the offences of which he was accused, nor on whether they were classified as crimes, and pointed out that, since he had appealed against the decision of the Créteil court of first instance, he should be presumed innocent. The Conseil d'État therefore considered that the CSA decision should not be regarded as bringing that presumption into question.

It also ruled that the fact that the head of a public audiovisual company no longer had the confidence of the state authorities did not, in itself, justify the regulator's decision to terminate his mandate. However, in this case, the CSA had fulfilled its duty to guarantee the independence and impartiality of this sector by taking into account, in particular, the need, from the point of view of the smooth functioning of Radio France and in the context that it described, for the relationship between

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the public authorities and the company president to be conducive to the latter being able to fulfil his mission effectively. The CSA had therefore been right to consider that keeping Mr Gallet in his post despite his conviction would be prejudicial to Radio France's relationship with the state and the public authorities, and that the resulting disruption would harm its ability to function smoothly and fulfil its public service remit. The Conseil d'État therefore rejected Mr Gallet's request.

Conseil d'État (5e ch.), 14 décembre 2018 - M. Gallet

http://arianeinternet.conseil-etat.fr/arianeinternet/ViewRoot.asp?View=Html&DMode=Html&PushDirectUrl=1&Item=1&fond=DCE&texte=gallet&Page=1&querytype=simple&NbEltPerPages=4&Pluriels=True

Conseil d'État (5th chamber), 14 December 2018 - M. Gallet

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