[RO] National Audiovisual Council - focus on very sensitive cases

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The *Consiliul Naţional al Audiovizualului* (National Audiovisual Council, CNA) focused on very sensitive cases which have been covered intensively by the mass media over the last few months. The CNA issues sanctions or warnings (see IRIS 2010-8/42, IRIS 2011-1/44, IRIS 2012-1/39, IRIS 2012-4/36, ans IRIS 2017-6/27).

On 29 July 2019, the National Audiovisual Council called onbroadcasters to act in a decent and responsible manner in the case of crimes in Caracal, southern Romania, and to respect fundamental human rights and freedoms, the protection of human dignity and the right to one's own image, as well as to ensure that the correct information is given - provisioned by the audiovisual legislation. The CNA clearly warned that it would conduct monitoring activities to evaluate how broadcasters cover this topic.

The case of Caracal, where two teenage girls aged 15 and 18 were allegedly kidnapped, raped, murdered and incinerated by a 65-year-old serial killer has provoked a huge wave of emotion in Romania since 25 July, when the case first came under the spotlight. The case is underway and has triggered the resignation of the Internal Affairs Minister as well as the dismissal of high-level police officers and will also trigger the tightening of penalties for criminals, rapists and pedophiles.

The tabloid media leaked some private conversations between one of the victims and the emergency number 112 operators, and even quality media covered the subject in a sensational tabloid fashion, with accents of hysteria and sometimes cynicism, which prompted the National Audiovisual Council to issue a warning recalling the provisions of the Audiovisual Code in the field:

Article 45 (1) Everyone has the right to have his/her privacy respected in difficult times such as those of irreparable loss or misfortune. (2) In the case of human suffering, natural disasters, accidents or acts of violence, the audiovisual media service providers have the obligation to respect the image and dignity of the persons in such situations.

Article 64 (1) By virtue of the public's fundamental right to information, the audiovisual media service providers must respect the following principles: a) ensure a clear distinction between facts and opinions; b) make sure that the

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information provided on a subject, fact or event is correct, verified and presented impartially and in good faith.

In another development, on 13 August 2019, the National Audiovisual Council issued sanctions against more commercial TV stations for breaches of the legal provisions with regard to the coverage of the case of a young Romanian Roma girl adopted by a family of Romanians living in the USA. The debate generated by the case of the small girl who was brutally taken from a maternal assistant by a prosecutor to be entrusted to the family who adopted her sparked a great public outpouring of emotion and launched considerable debates about the behaviour of a state official with a child in a difficult situation and about the need to modify adoption legislation in Romania. Years ago, the country was harshly criticised for its legislation on adoption and for the way orphans and children in placement centres were cared for by the state.

The CNA issued a LEI 15 000 fine (around EUR 3 170) for România TV station, a fine of LEI 10 000 (around EUR 2 110) for B1 TV, and a public warning for Realitatea TV for breaches of the Audiovisual Law and of the Audiovisual Code. The breaches were related to the following legal provisions: Article 3 (2) of the Audiovisual Law, and Article 18 (1), Article 40 (2), (4) and (5), and Article 64 (1) (see reference above for Article 64 (1)) of the Audiovisual Code.

According to Article 3 (2) of the Audiovisual Law, all audiovisual media service providers have the obligation to ensure that the public is provided with objective information by presenting the facts and events correctly and to favour the free formation of opinions.

Article 18 (1) of the Audiovisual Code stipulates that between 6 p.m. and 11 p.m., productions presenting: (...) b) scenes of sex, bad language or trivial, vulgar or obscene behaviour may not be broadcast.

Article 40, regarding the right to one's own image and the obligation to present evidence to prove the accusations launched against a person, provisions as follows:

(2) If the accusations stipulated in paragraph 1 are provided by the audiovisual media service provider, it must comply with the principle *audiatur et altera pars*; the observance of this principle implies non-discriminatory conditions of expression until the end of the same programme in which the accusations were made. If the data subject refuses to present a point of view, this fact must be stated.

(4) The programme moderators have the obligation to insist on the interlocutors proving the accusatory statements in order to allow the public to evaluate how justified they are.

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(5) Moderators, presenters and programme makers have the obligation not to use and not to allow their guests to use abusive language or to instigate violence.

Comunicat de presă 29.07.2019

http://cna.ro/Comunicat-de-pres,9814.html

Press release of 29 July 2019

Comunicat de presă. Ședința publică a CNA din 13.08.2019

http://cna.ro/Comunicat-de-pres,9814.html

Press release - CNA public meeting of 13 Augsut 2019

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