The CSA was not entitled to punish Radio Courtoisie for broadcasting racist comments

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The company that produces the terrestrial analogue radio station Radio Courtoisie asked the Caen regional audiovisual committee to renew, without a call for tender, its broadcasting licence for a specific geographical area, which was due to expire on 3 December 2018. On 27 November 2017, the regional committee rejected its request on the grounds that the company had been fined EUR 25 000 by the national audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) on 4 October 2017. The company therefore lodged an administrative appeal with the CSA, which rejected it, firstly implicitly and then explicitly, in a decision of 25 April 2018 for the same reason as that given by the regional audiovisual committee. On 17 December 2018, the Conseil d'Etat, ruling on the dispute, ordered that execution of the latter decision should be stayed on the basis of Article L. 521-1 of the Code of Administrative Justice. The company requested the annulment of both CSA decisions on grounds of abuse of authority.

The Conseil d'Etat noted that the sanction imposed by the CSA on 4 October 2017, the existence of which formed the basis of the CSA's disputed decision, had concerned repeated racist, xenophobic comments that incited discrimination based on religion, made by the company's president or his guests during the programme *Le libre journal d'Henry de Lesquen*. However, the case file also showed that the steps taken by the company since July 2017, which included relieving the person concerned of his responsibilities within the company and taking him off air, showed the applicant's willingness to learn lessons from the sanction imposed against it and to avoid repeating the infringements.

In these circumstances, the Conseil d'Etat considered that the CSA had incorrectly applied the provisions of Article 28-1 of the Law of 30 September 1986 by refusing to renew the company's broadcasting licence without a call for tender on the grounds of the aforementioned sanction. The CSA was ordered to pay the company EUR 3 000 on the basis of Article L. 761-1 of the Code of Administrative Justice.

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https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2020-02-05/425747

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