[FR] Court rejects former Numéro 23 owner's CSA compensation claim

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In a ruling of 12 November 2020, the Paris administrative court rejected a request from the former owner of the channel Numéro 23, who was claiming EUR 20.2 million in compensation from the French national audiovisual regulatory authority (*Conseil Supérieur de l'Audiovisuel - CS*A). The DTT channel, now owned by the NextRadioTV group and renamed RMC Story, had been sanctioned by the CSA in 2015, when its broadcasting licence had been withdrawn and its sale to NextRadioTV blocked on the grounds of fraudulent speculation. This sanction had been overturned by the Conseil d'Etat on 30 March 2016. The channel's owner had then claimed more than EUR 20 million in compensation from the CSA in 2019 "for reparation of the damage" caused. He also demanded a symbolic payment of EUR 1 for "moral and reputational damage". Following the CSA's implicit refusal, he took his claim to the administrative court, arguing in particular that he had suffered losses as a result of the decline in value of his shares between the initially aborted sale of the channel to NextRadioTV and the subsequent completion of the sale.

The administrative court held that "the investigation shows that the company was in financial difficulty before the CSA began the sanction proceedings" and that "fluctuations in audience share between 2015 and 2016" were not "directly linked to the sanction".

Furthermore, whereas the claimant argued that Numéro 23's loss of audience share was a direct result of the CSA's decisions, the investigation had failed to prove that the fluctuations in audience share between 2015 and 2016 were directly linked to the sanction. In addition, although the investigation had shown that the sanction imposed by the CSA had exacerbated the channel's problems in selling advertising slots, these difficulties had already existed before the sanction was issued. Therefore, the court decided that, in view of its pre-existing structural and financial difficulties, the company's drop in value – which had led to a fall in the value of the claimant's shares – and the lower sale price, which had been freely negotiated in an agreement dated 1 April 2016, were not directly and necessarily attributable to the CSA's decisions.

The court therefore concluded that, since the loss of earnings cited by the claimant had not been directly caused by the CSA's sanction and subsequent decisions, he had no right to compensation. Moreover, regarding the request for a

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symbolic payment of EUR 1, the claimant had failed to provide any evidence to show that he had suffered any personal moral or reputational damage. Instead, he was ordered to pay legal expenses of EUR 1 500 to the CSA.

Tribunal administratif de Paris, 5e sect. 2e ch., 12 novembre 2020, N° 1906300/5-2, M. H. P.

Paris administrative court, 5th section, 2nd chamber, 12 November 2020, No. 1906300/5-2, M.H.P.

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