[FR] Application for stay of CSA sanction against CNews rejected

IRIS 2021-6:1/7

Amélie Blocman
Légipresse

On 17 March 2021, the *Conseil Supérieur de l'Audiovisuel* (French audiovisual regulatory body – CSA), pursuant to Article 42-1 of the Law of 30 September 1986, imposed a fine of EUR 200,000 against the CNews television channel following remarks made by political commentator Eric Zemmour during the programme "Face à l'info" broadcast on 29 September 2020 (see IRIS 2021-5:1/26). Zemmour then asked the urgent applications judge of the *Conseil d'Etat* (Council of State) to stay the execution of the decision. He argued that execution of the decision would infringe the right to be presumed innocent as well as freedom of expression since, firstly, the disputed decision stated that he had committed the offence of incitement to racial hatred even though a criminal investigation was still under way and, secondly, the decision had the purpose or effect of denying him access to certain media.

The urgent applications judge of the *Conseil d'Etat* pointed out that, according to Article L. 521-1 of the Code of Administrative Justice, the execution of an administrative decision could be stayed on the grounds of urgency if the decision harmed a public interest, the applicant's situation, or the interests defended by the applicant in a sufficiently serious and immediate way. Taking into account the applicant's arguments, the judge therefore needed to assess whether the effects of the disputed decision created sufficient urgency for the execution of the decision to be stayed until the application had been judged on its merits. The urgency should be measured objectively, taking all the circumstances of the case into account.

In this case, the *Conseil d'Etat* ruled that the applicant had failed to put forward any relevant circumstance that could justify a stay of execution of the decision, i.e. payment by the CNews television channel of a fine imposed for failing to meet its obligations, since its execution would not, in itself, cause any harm to the applicant.

In the absence of urgency within the meaning of Article L. 521-1 of the Code of Administrative Justice, the application was rejected.

CE, 28 avril 2021, N° 451898, E. Zemmour

http://www.conseil-etat.fr/fr/arianeweb/CE/decision/2021-04-28/451898

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