[MT] State Broadcaster and Broadcasting Authority fined by Court

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The First Hall Civil Court, sitting in its Constitutional Jurisdiction, delivered judgement in the case filed by the Nationalist Party against the State Broadcaster (PBS) and the Broadcasting Authority (BA).

The Nationalist Party sought redress from the Courts of Law following a ruling by the regulator directing the state broadcaster to grant a right of reply to the plaintiff following a feature on a magazine programme which was deemed to be too political in nature and warranted a reaction from the party in opposition.

Despite this decision, the state broadcaster refused to broadcast the right of reply and it was only after the Nationalist Party filed a second complaint with the BA that PBS acceded to broadcasting the right of reply. In addition, the station was also handed an administrative penalty of EUR 4,660 as contemplated by the Broadcasting Act. However, this fine was suspended following the broadcast of the right of reply.

The Nationalist Party called on the Courts to declare that its constitutional rights were breached due to the lengthy delay in the broadcasting of its right of reply. The Court agreed with the plaintiff and slammed the state broadcaster and the regulator for failing in their constitutional obligations.

Given that in Malta PBS enjoys a dominant position and its leading channel is the most popular linear station on the island, the Court stressed that it was imperative for such a station, with peak audiences during news hour, to provide “impartial and precise information as well as an array of opinions and comments reflecting diverse political views in the country”.

The Court observed that the case in question took place when a general election was looming and therefore time was of the essence. In his ruling, the Judge remarked that the Authority had failed to ensure impartiality “with speed and proactivity that was needed in broadcasting, especially at a time of persistent rumours and clear indications that a general election was imminent - as in fact it was.”

The public broadcaster was also slammed for its refusal to comply with a directive issued according to law by the regulator. The Court remarked that PBS could

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easily have broadcast the right of reply and then sought a judicial review of the case at a later stage.

Meanwhile, a second grievance brought to the attention of the court by the Nationalist Party in the same case was not upheld by the court given that the party had failed to file the second complaint with the regulator. This grievance revolved around a series of political adverts aired on the main state channel in conjunction with the 2022 budget. The Nationalist Party had been awarded a remedy in the form of similar spots to be aired on national television but the plaintiff claimed that the impact of such spots was neutralized as these were 'sandwiched' between government informational adverts.

The state broadcaster and the Broadcasting Authority were each fined EUR 1,500. The BA has since appealed this judgement with the outcome still pending.

Case 73/2022 - PARTIT NAZZJONALISTA vs AWTORITA TAX-XANDIR ET

https://ecourts.gov.mt/onlineservices/Judgements/Details?JudgementId=0&CaseJudgementId=133330

Case 73/2022 - Nationalist Party vs Broadcasting Authority

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