

Text of the Sanction broadcast by Realitatea TV channel

(Decision NAC n° 25 of 15.01.2019 available on: http://www.cna.ro/IMG/pdf/Dec25-Realitatea-10min-informare_demnitate.pdf)

“The National Audiovisual Council sanctioned the S.C. REALITY MEDIA S.A. broadcaster with the obligation to broadcast on 17th January of 2019, for 10 minutes, from 19.00 to 19.10, on the REALITATEA TV channel, the following text:

The Council has decided to apply this severe sanction, as the broadcaster has repeatedly and seriously violated the provisions on the obligation to properly inform the public and to respect the person's own image rights.

In fact, between 6th to 17th August of 2018, the REALITATEA TV channel broadcast several news and debates in which was analyzed the subject of the protest that took place on 10th August of 2018, which resulted to be with violence.

In the public session, the members of the Council analyzed the monitoring reports and watched recordings of the programs "Games of Power" (the editions of 6th, 9th, 13th, 14th and 15th August), "News and Debates" (the editions of 10th, 11th and 12th August), "Breaking News" and "Tâlc and 14th August" of 2018) and ascertained they were broadcast in violation of the provisions of art. 3 par. (2) of the Audiovisual Law and of the 34 par. (1), 40 (4, 5) and 64 (1) lit. a) of the Audiovisual Code.

In essence, the members of the Council ascertained that, in the programs under discussion, the way in which the subject of the protest of 10th August of 2018 was discussed is contrary to the legal provisions invoked, in that the broadcaster did not provide objective information to the public by presenting the facts and events correctly and did not favor the free formation of opinions and did not ensure a clear distinction between facts and opinions.

The Council considers that the manner in which such a subject has been approached, with a strong impact and interest among viewers, is flagrantly contradictory to the rules in force in which the broadcaster is legally obliged to inform objectively, impartially and in good faith the public in relation to the information brought to its attention.

Thus, in the analyzed programs were presented unrealistic information, in the sense that in the Government building would be ammunition of war, and against demonstrators would have been used a toxic gas (CS) for the health of the population, prohibited at international level. It was also said that a Colonel of the Romanian Gendarmerie would be responsible for "the death of two Kosovars", while he would have coordinated the Romanian brigade of ONU forces in Kosovo. Although there were not presented concrete data on the program, to testify these serious information, on the screen were displayed titles to induce the audience with their veracity.

Such an approach contradicts the requirement of art. 3 par. (2) of the Audiovisual Law, according to which the broadcaster was obliged to ensure the objective information of the public, and by virtue of the principle stipulated in art. 64 par. (1) letter a) of the Audiovisual Code, this should have ensured a clear distinction between facts and opinions.

The members of the Council also noted that in the programs broadcast during the same period of reference, accusatory comments were made to individuals and public

entities, without the moderator asking the interlocutor to prove them, as the legislator requires, in order, for on the one hand, to allow the public to see how justified they are and to be able to form their own conviction about the information and facts presented. In this case, was mentioned the violation of art. 40 par. (4) of the Audiovisual Code, because the moderator did not act to stop the allegations in the absence of evidence. The comply of the legal norm aims, on the one hand, to protect the dignity and honor of the person concerned from the content of the allegedly unjustified allegations and, on the other hand, to ensure the right of the public to be correctly informed, based on concrete, pertinent and conclusive evidence.

The members of the Council also noted that some of the moderator's comments on "Games of Power" program, broadcast on 10.08 and 15.08.2018, regarding the protest of 10th August of 2018, can fit with the incitement to violence, which is contrary to art. 40 par. (5) of the Audiovisual Code, according to which moderators, presenters and program promoters are under the obligation to not use or allow guests to use abusive language or incite to violence.

As well, the members of the Council noted that, in the context of the subject of the protest of 10th August of 2018, during the programs analyzed, an offensive language was used for public figures that were nominated, which could unduly prejudice their own image, violating this way the art. 34 par. (1) of the Audiovisual Code, a provision that guarantees to any person the right to have the own image protected.

Regarding all these aspects, in the public session from 15th January of 2019, the members of the Council ascertained that the broadcaster continued to seriously violate the provisions of correct information and human dignity, although in 2018 the broadcaster was imposed 10 fines, totaling 145.000 lei (national currency) for similar violations.

In this respect, the legislator provides that, in the case of repeated offense, and only after the broadcaster has previously been fined at least twice, the Council may decide to apply a more severe penalty, namely the one provided in art. 95 par. (1) letter a).

Regarding all these aspects and taking into account the comply of the condition stipulated in art. 95 par. (2) letter a) of the Audiovisual Law, the members of the Council proposed the sanctioning of the broadcaster S.C. REALITY MEDIA S.A. with the sanction provided in art. 95 par. (1) lit. a) from the law invoked, namely with the obligation to broadcast on 17th January of 2019, for 10 minutes, between 19.00-19.10, only the text of the sanctioning decision issued by N.A.C.

As guarantor of public interest, the Council considers that the broadcasters have an obligation to inform the public correctly and this must be done with impartiality and balance in respect of the facts and events presented, while ensuring respect for the rights of the person to the own image.

In this regard, the Parliamentary Assembly of the Council of Europe, in its Resolution n^o 1003/1993 regarding the journalistic ethics, states that the press is bound to abide the ethical and firm principles that guarantee freedom of expression and the fundamental right of the citizen to receive correct information and sincere opinions, and the dissemination of news must be based on truth, provided by appropriate means of verification and demonstration and impartiality in presentation, description and narration. "