

BGE 20251009_43335_18 vom 9. Oktober 2025

Bundesgericht (BGE), 2025-10-09, FR

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IT: BGE 20251009_43335_18 del 9 ottobre 2025

Regeste

Regeste Diese Zusammenfassung existiert nur auf Französisch.

Regeste

Regesto Questo riassunto esiste solo in francese.

Erwägungen

E. 1

On 22 January 2015, the applicant company, the Swiss Broadcasting Corporation (Société suisse de radiodiffusion et television - SSR), broadcast a report entitled "Affaire [G.], du vin en eaux troubles" ("[G.] affair: wine in troubled waters") in its weekly magazine programme "Temps Présent". The investigation focused on irregularities in the Swiss wine market and the case of Mr D.G., a winemaker from the Canton of Valais, who had been accused of tax offences, fraud, unfair competition practices, forgery, and misuse of "AOC Valais" labels. The report also discussed his religious beliefs and his views on abortion and homosexuality. A spokesperson for Mr D.G. had given an interview during the preparation of the report, but had later requested that the interview be withdrawn owing to editorial disagreements.

E. 2

After the failure of the compulsory mediation proceedings, Mr D.G. and his company lodged a complaint with the Independent Complaints Authority for Radio and Television ("the Complaints Authority"), submitting that the report had portrayed him as a disreputable person involved in dubious practices, had failed to put forward his perspective and had omitted to include critical background details, including a journalist's personal dispute with him.

E. 3

On 25 August 2016 the Complaints Authority upheld the complaint, finding that the report was biased and overly judgmental, and that it focused on Mr D.G.'s negative aspects without adequately presenting his perspective. It concluded that the requisite journalistic diligence was lacking.

E. 4

The applicant company appealed to the Federal Supreme Court, which dismissed the appeal on 15 February 2018. The court found that the report had failed to provide a balanced view, had disproportionately targeted Mr D.G. and had disregarded broader regulatory issues. It noted the report's focus on Mr D.G.'s personal life, religious beliefs and moral judgments, which were unrelated to its investigative purpose. The court held that the report had

breached objective journalism rules by excluding the relevant context, such as cantonal blending practices and Mr D.G.'s compliance with cellar regulations, while ignoring positive aspects of his business such as the awards received for his wines. The court also held that the report had unnecessarily discredited Mr D.G., thus breaching ethical standards. It highlighted the need for balanced reporting and the adequate representation of all perspectives.

E. 5

On 4 June 2018 the applicant company informed the Complaints Authority about the measures that had been taken to redress the imbalance and to comply with the findings, which included: (a) disseminating the decisions to editorial teams and discussing them in meetings; (b) disseminating the decisions in ethics training sessions; and (c) removing the report from the applicant company's website and placing it under legal embargo.

E. 6

On 28 June and 10 July 2018 the Complaints Authority replied to the applicant company, stating that the proposed measures were sufficient. It expressly drew attention to the fact that it did not require the disputed report to be deleted; if the video of the report were to remain in the electronic archive, or on the programme's web page, a reference to the decision of the Complaints Authority or the ruling of the Federal Supreme Court would be sufficient. Erwägungen THE COURT'S ASSESSMENT

E. 7

The applicants complained that the domestic authorities' finding that they had breached their obligation to present events accurately would have a chilling effect, thus constituting a violation of their freedom of expression under Article 10 of the Convention.

E. 8

The Government raised an objection of non-exhaustion of domestic remedies concerning the complaint lodged by the second, third and fourth applicants and stated that the application was manifestly ill-founded in so far as there had been no interference with the applicants' rights under Article 10 of the Convention. The Court considers it unnecessary to address the Government's non-exhaustion objection because the application is in any event inadmissible for the following reasons.

E. 9

This case concerns the decisions of the Complaints Authority and the Federal Supreme Court, which found that the applicant company had failed to include an important aspect of the subject matter in the broadcast in question, thereby preventing the public from forming a free and informed opinion.

E. 10

While the concept of "interference" is broad - encompassing various forms of restrictions, penalties and formalities imposed by State authorities - it is closely linked to the existence of a chilling effect on the exercise of freedom of expression. The Court has consistently held that purely hypothetical risks are insufficient to establish such an interference (for examples of concrete interferences, see *Schweizerische Radio- und Fernsehgesellschaft and Others v. Switzerland* (dec.), no. 68995/13, § 71, 12 November 2019, and the references cited therein).

E. 11

In the present case, the applicants merely alleged that the decisions in question would have a "chilling effect". However, there is no evidence in the case file that such claims were subsequently borne out by concrete developments. The Court notes, in particular, that (a) there was no prohibition on broadcasting the disputed programme; (b) the Complaints Authority explicitly stated that referencing the impugned decisions would suffice; (c) the applicant company was not required to remove the disputed programme from its electronic archive; and (d) the only obligation imposed on the applicant company was to inform the Complaints Authority of the measures taken to prevent similar breaches in the future.

E. 12

In the light of these considerations, the Court finds no evidence of a chilling effect in the present case. Consequently, the contested decisions cannot be regarded as amounting to an "interference" with the applicants' right to freedom of expression.

E. 13

The Court concludes that, on the basis of all the material before it, and in so far as the complaint falls within its competence, it fails to meet the admissibility criteria set out in Articles 34 and 35 of the Convention and does not disclose any appearance of a violation of the rights or freedoms enshrined in the Convention or the Protocols thereto.

E. 14

Accordingly, the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention. Entscheid For these reasons, the Court, unanimously, Declares the application inadmissible. Done in English and notified in writing on 6 November 2025.
Martina Keller Mykola Gnatovskyy Deputy Registrar President

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