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CASE NUMBER: 22/2014

DATE OF HEARING: 24 JULY 2014
JUDGMENT RELEASE DATE: 04 AUGUST 2014

RODIONOV

COMPLAINANT

vs

TALK RADIO 702

RESPONDENT

TRIBUNAL: **PROF KOBUS VAN ROOYEN SC (CHAIRPERSON)**
 DR NANA MAKAULA-NTSEBEZA
 MS ZALI MBOMBO
 MR ALAN MELVILLE
 MS SHAMILA SINGH
 DR LINDA VENTER

FOR THE COMPLAINANT: The Complainant was unable to attend.

FOR THE RESPONDENT: Ms Khahliso Mochaba: Group Human Capital and Regulatory Affairs Executive, Primedia Broadcasting.

Commentary on the elections in Crimea reasonably related to the facts. Rodionov vs Talk Radio 702, Case: 22/2014(BCCSA)

SUMMARY

Complainant argued that a short commentary by a visiting researcher from the Ukraine on the elections in Crimea was one-sided and ill-informed.

The Tribunal held that the Complainant's assertion regarding the researcher's claim that the European Union's electoral commission had not been allowed to monitor the

elections, was incorrect. It was, however, as stated by the researcher, the European Union that had decided not to monitor the elections. The Commission that had, indeed, not been permitted to monitor the elections was in fact the Organisation for Security and Cooperation (“OSCE”). Furthermore, even if 40% of the opposing voters had taken part in the election, as asserted by the Complainant, that did not mean that certain groups in Crimea, mentioned by the researcher, had not indicated beforehand that they would not take part in the election. In any case, it was clearly only an opinion which the researcher gave, given the fact that the elections had only taken place the day before.

The commentary was, accordingly, not biased or not reasonably related to the facts as required by the Broadcasting Code.

The Complaint was not upheld.

JUDGMENT

JCW VAN ROOYEN

[1] A complaint was received from a listener in regard to a broadcast in which the view of a visiting Ukrainian researcher was broadcast during the John Robbie show before seven in the morning. The complaint related to the elections in Crimea. The Complainant argued that it was unacceptable to broadcast such a narrow view of the election in Crimea. More than one source needed to be considered when reporting on the topic. At the very least, the researcher’s views should have been questioned and not simply accepted as fact. She had made mistakes as to the facts, the Complainant argued. I referred the matter to a Tribunal of the Commission for a hearing.

[2] The complaint reads as follows:

“I would like to complain about the opinion given as facts by the political expert on the John Robbie show between 6:50 and 7 am.

It bothered me that she stated that the European voting commission (I forget its name) was not allowed to attend the referendum in Ukraine, while the minority groups have completely blocked the referendum in Crimea. This reporting undermined the referendum in Crimea, while promoting the same propaganda that the American media has been broadcasting.

If one considers Crimean sources, you will see that the European commission has in fact been invited to attend the referendum, but refused due to the political EU position on Ukraine, in particular the support of the new coup government in Ukraine.

With regards to the referendum, the Crimean sources show that in fact the minority groups have attended the referendum with a figure of 40% floating around.

I believe it's unacceptable to give such a narrow view of the situation in Crimea and more than one source needs to be considered when reporting the news. At very least her views should have been questioned and not simply accepted as fact. I look forward to hearing from you. "

- [3] Ms Mochaba, representing the Respondent, argued that Radio 702 broadcasts news stories on a continuing basis and that, in the process, it had consulted a visiting researcher from the Ukraine at the University of Johannesburg, who gave her view on the situation. She had, in fact, also provided her view on the situation the previous week. Although the researcher may well have given a narrow perspective on the situation, the Respondent, in the ordinary course, justifiably relied on her opinion of the situation. The interview was also not meant to cover all aspects of the situation, and was limited to five to six minutes. The researcher's view was, indeed, not the final one broadcast on the election in Crimea, which was an ongoing news item.

EVALUATION

- [4] Firstly, I should mention that the visiting researcher stated that there were no international observers in the elections. She then said that the Organisation for Security and Cooperation ("OSCE") was not allowed to monitor the elections. However, that organisation is not an election monitor from the European Union, as suggested by the Complainant. The European Union mandates its own election monitoring committees, as was the case with the President's election in Egypt, earlier this year.¹ OSCE is in fact the world's largest security-oriented intergovernmental organisation. Its mandate includes issues such as arms control and the promotion of human rights, freedom of the press, and fair elections. It has its headquarters in Vienna and has its origins in the 1975 Conference on Security and Co-operation in Europe (CSCE) held in Helsinki, Finland. The OSCE is concerned with conflict prevention, crisis management, and post-conflict rehabilitation. Its 57 participating

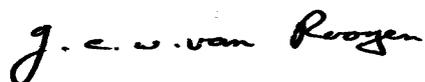
¹ On its website the European Union, e.g. states as follows: "Election observation is a vital EU activity aiming to promote democracy, human rights and the rule of law worldwide. It contributes to strengthening democratic institutions, building public confidence in electoral processes, helping to deter fraud, intimidation and violence. It also reinforces other key EU foreign policy objectives, in particular peace-building. Election observation gives the opportunity to assess an electoral process according to international standards. The EU is a leading global actor in providing and financing electoral assistance complementary to election observation. This dual form of EU election support constitutes a significant contribution to the promotion of governance and development objectives. Examples of recent elections which were monitored are then provided.

states are located in Europe, Asia and North America and cover most of the land area of the northern hemisphere. It was created during the Cold War era as an East–West forum.

[5] Moreover, the researcher did not state that the European Union had not been invited to monitor the elections, but instead said that it had refrained from attending and monitoring the elections. Indeed, the Complainant’s statement regarding the referendum – “Crimean sources show that in fact the minority groups have attended the referendum with a figure of 40% floating around” – does not counter the view expressed by the researcher that certain groups in Crimea stated that they would boycott the elections. There is no basis upon which one might conclude that such boycotts were either not planned or were planned. If, in spite of the boycotts, 40% of votes were “floating around”, that is a view based upon the Complainant’s sources – a matter on which there might easily be a difference of opinion – especially so soon after the elections. The researcher, in any case, did not state that the boycott, as planned, was effective. That she might have been wrong in referring to “almost all” of the members of certain groups as having boycotted the elections is not so important to make a finding against the broadcaster. Views on how people voted or boycotted elections tend to differ – especially so soon after an election.

[6] In the result we are of the opinion that the perspective of the Complainant and that of the researcher could very well have differed on the elections, but that there was no reason why the researcher’s opinion, as broadcast, might be found to have not been based on the facts or not reasonably based on the facts to which she referred. Her view was broadcast in only six minutes and it was not necessary for John Robbie to have questioned her opinion within the ambit of this kind of item. She gave a broad sketch of what she perceived to have happened and that was sufficient for the John Robbie Show – a style well known to regular listeners to the programme.

The complaint is not upheld.



JCW VAN ROOYEN SC [CHAIRPERSON]

Commissioners Makaula-Ntsebeza, Mbombo, Melville, Singh and Venter concurred with the judgment of the Chairperson.