# [HU] Court of Justice of the European Union: Rejection of Klubrádió's frequency license renewal application ruled unlawful

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On 26 February 2026, the Court of Justice of the European Union (CJEU) delivered its judgment in Case C-92/23 concerning the infringement proceedings initiated by the European Commission against Hungary regarding the refusal to renew Klubrádió's broadcasting contract. The Court found that Hungarian authorities breached EU law by refusing to extend the service provider's frequency usage rights based on discriminatory and disproportionate conditions.

Klubrádió is a Hungarian commercial radio station that has been broadcasting its programmes on various radio frequencies since 1999. In 2014, the service provider entered into an administrative contract with the Media Council of the National Media and Infocommunications Authority (NMHH) for the use of the Budapest FM 92.9 MHz frequency. The agreement was concluded for a period of seven years, on the condition that the station could request the renewal of the usage rights for an additional five years prior to the expiration date.

By Decision No 830/2020 (IX.8) of 8 September 2020, the Media Council of the NMHH rejected the automatic renewal of Klubrádió's Budapest 92.9 MHz frequency licence, citing grounds for exclusion set out in the Hungarian Media Act. According to statutory regulations, the authority's decision only entailed the exclusion of automatic renewal; the service provider retained the opportunity to regain the frequency through a newly announced public tender.

The NMHH based the exclusion on repeated infringements, which included administrative and technical omissions, such as a network connection established without authorisation in 2014, and several instances in 2016 where the provider failed to meet its monthly data reporting obligations regarding programming quotas.

According to Klubrádió's argument, the refusal of the automatic renewal was a disproportionate and excessive legal consequence relative to the minor errors committed. Klubrádió later submitted applications for the call for tenders concerning the provision of media services on the frequency 92.9 MHz.

By Decision No 180/2021 (III.10.) of 10 March 2021, the Media Council found that Klubrádió's submitted application for the call for tenders was invalid on

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substantive grounds.

The media service provider exhausted all domestic legal remedies: on 28 September 2021, the Supreme Court of Hungary, the Curia (Judgment No. Kf.VI.37.108/2021/11) found the authority's procedure to be lawful, emphasising that the Media Council had no discretionary power when statutory grounds for exclusion were present. Subsequently, in February 2022, the Constitutional Court also rejected the station’s complaint, ruling that the withdrawal of the frequency did not violate the principle of freedom of the press.

In parallel, the European Commission initiated infringement proceedings, as it held the view that the Hungarian procedure violated the provisions of the European Electronic Communications Code (EECC – Directive (EU) 2018/1972).

In the reasoning of its judgment, the CJEU emphasised that, under Directive (EU) 2018/1972, the granting and renewal of radio spectrum usage rights must in all cases be based on objective, transparent, non-discriminatory, and proportionate criteria. The Court established that the provision of the Hungarian Media Act - which automatically excludes the renewal of rights without any discretion, even in cases of minor, purely formal infringements that had already been sanctioned or remedied - severely violates the EU principle of proportionality.

The Court’s reasoning also extended to the subsequent tender procedure: according to the decision, the invalidation of the tender based on financial indicators (such as equity status or cost coverage) that were not clearly stated in the tender specifications was contrary to the principles of transparency and proportionality. Furthermore, the CJEU recorded that the authority violated the principle of good administration due to significant delays in decision-making and the failure to issue the tender in a timely manner. Finally, the Court ruled that the administrative decisions based on alleged inaccuracies - since they effectively made the station's operation impossible - constituted an unjustified restriction on the freedom of expression and information guaranteed by Article 11 of the Charter of Fundamental Rights.

Although the judgment obliges the Member State to terminate the unlawful situation, the frequency is not automatically returned to the provider. Based on the final judgment, the opportunity opens for Klubrádió to seek a retrial before Hungarian courts and to initiate a claim for damages caused by the breach of EU law. Meanwhile, the European Commission may - should the Member State fail to comply with the judgment - initiate further proceedings for the imposition of financial sanctions.

***Judgment of the Court in Case C-92/23 | Commission v Hungary (Right to provide media services on a radio frequency)***

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***Final judgement in the Klubrádió frequency tender case***

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