

## [HU] IRISZ TV won case against the Hungarian National and Radio Commission

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On 30 June 1997, the Hungarian National Television and Radio Commission (NRTC) awarded two national terrestrial licenses to MTM-SBS and CLT-Ufa's MAGYAR RTL (see IRIS 1998-4:4). The IRISZ TV proposal, submitted by the First Hungarian Commercial Television Stock Company, the enterprise behind IRISZ TV, lost bidders.

On 4 July 1997, IRISZ TV filed a law suit against NRTC asking the Economic Department of the Metropolitan Court to annul the Commission's decision and to instruct the Commission to duly complete the selection process for the television concession proposals. IRISZ TV based its petition on three major arguments. First of all IRISZ TV claimed that MAGYAR RTL failed to keep on with the application deadline of the invitation, because submitted its proposal three hours later. As a result MAGYAR RTL's proposal should be deemed invalid. Secondly, the petitioner also emphasized that the NRTC's decision considered IRISZ TV's bids for two national terrestrial licenses as one unified bid which was contrary to the invitation. Finally, referring to the relevant minutes of the NRTC meeting IRISZ TV argued, that the Commission ignored the selection process required by Paragraphs 45 and 46 of Act I of 1996 on Radio and Television broadcasting when voted first about the winners and then evaluated the bids according to the preliminary decision.

On 25 March 1998, the Economic Department of the Metropolitan Court decided in favor of the Hungarian National Radio and Television Commission and IRISZ TV lost the legal battle on the first instance level. The Court accepted that MAGYAR RTL failed to keep on with the application deadline of the invitation, however the judge argued that according to the media law NRTC, in accordance with § 99 section 3 asked for the completion of deficiencies occurred in MAGYAR RTL's bid. Furthermore, the judge argued there were no cogent rules governing the principles and guidelines for evaluating the bids. In the meantime, the Court didn't find evidence for the violation of competition rules by the NRTC.

The decision of the Hungarian Supreme Court was delivered on 22 February, 1999. The highest court of Hungary partly reversed the decision of the Metropolitan Court in the following way. The Supreme Court ruled that the proposal of MAGYAR RTL was invalid. Therefore, NRTC's acceptance of this bid was against the media law. The judgement of the Supreme Court also found that

the selection process employed by NRTC was not in accordance with the media law. The Court declared illegal NRTC's conclusion of the broadcasting contract with MAGYAR RTL. Consequently, the Supreme Court ordered NRTC to terminate immediately the broadcasting contract with MAGYAR RTL. This is the very first law suit in Hungary ever filed and won against an agency which is empowered to award national terrestrial licenses.

***Hungarian Supreme Court GF.VI31.856/1998/19, Decision of 22 February 1999.***

