[ES] Supreme Court Allows Autonomous Community to Provide Digital Terrestrial TV Services

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On 24 May 2001 the Tribunal Supremo (Supreme Court) decided to allow the Government of the Autonomous Community of Canarias to provide Digital Terrestrial Television (DTTV) services.

Decree 2169/1998 on the National Technical Plan on Digital Terrestrial TV currently identifies a regional multiplex in each Autonomous Community, which will initially carry four DTTV programme services. The regional DTTV programme services shall be operated by private broadcasters, once they have been awarded a concession following a public tender. However, the Decree reserves two DTTV programme services for the regional public service broadcasters which were duly authorised to provide analog terrestrial TV services when the Decree was passed (October 1998), i.e. the public service broadcasters of Catalonia, the Basque Country, Madrid, Comunidad Valenciana, Galicia and Andalusia.

The regional public service broadcaster of the Autonomous Community of Canarias was authorised to provide analog terrestrial TV services in December 1998 and according to Decree 2169/1998, no DTTV programme service was reserved for this broadcaster. The Government of Canarias considered that the Decree was restricting its ability to provide DTTV services in a discriminatory and unjustified way and it decided to ask the national government for authorisation to provide DTTV services. As this request was not answered by the national government, it was deemed to have been rejected. The Government of Canarias decided to appeal to the Supreme Court. This appeal was successful, so it must now be understood that any regional public broadcaster may have the right to operate up to two DTTV programmes in the regional multiplex mentioned in Decree 2169/1998, regardless of the date on which that public regional broadcaster started providing analog terrestrial TV services.

Sentencia del Tribunal Supremo, Sala 3ª, de 24 de Mayo de 2001, (Ponente: Sr. Campos Sánchez-Bordona)

Judgment of the Supreme Court (Administrative Chamber) of 24 May 2001

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