[SK] A Strong Effort to Amend the Act on Broadcasting and Retransmission to Reflect Practice

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The responsibilities of the Council for broadcasting and retransmission are determined by the zákon o vysielaní a retransmisii a o zmene zákona o telekomunikáciách (Act on Broadcasting and Retransmission of 2000). The administrative actions accompanying either the granting of licences for radio or television broadcasting or applied in cases where the violation of legal provisions covering content issues are considered must comply with the procedural rules set out by another provision - the zákon o správnom konaní (Act on Administrative Procedure No.71/1967 of Coll.).

After nearly one year of applying the Act on Broadcasting and Retransmission, practical experience has helped identify several reasons to amend the Act urgently as regards the situation where a financial sanction is imposed by the Council for an administrative offence.

Two sanctions can be appealed to the Supreme Court of the Slovak Republic: First, the decision to withdraw the broadcasting licence and, second, the decision to impose a financial penalty.

There was a provision in the previous law (Act on the Pursuit of Radio and Television Broadcasting, which ceased to have effect in 2000) setting the time-limit for taking a decision to impose a financial penalty for an administrative offence at two years starting from when the Council had been advised of a possible violation of the Act. Since this period had included the appeal procedure before the Supreme Court of the Slovak Republic, the time-limit was often found too short to complete the full procedure. This was the reason why the draft of the Act had proposed to extend this period to 3 years. However, and surprisingly, the final version of the relevant provision in the Act has set a one-year term, see Section 64.

The situation resulting from such a short time-limit is problematic, considerably reducing the powers of the Council. The majority of the Council's decisions on fines might be cancelled due to exceeding the proposed time period. Just a few months ago, two decisions of the Council were overturned for that reason. In one case, a fine of SKK two million (app. EUR 48.000) was imposed for violating the

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provision on the protection of minors (a broadcaster brought screened during prime time an interview with the top Slovak composer and singer, who explained his creativity and success by his addiction to marijuana and other drugs).

Furthermore, another proposed type of sanction - in fact a more effective one in relation to the public - is the announcement regarding the infringement of the law, see Section 65. This announcement has to be broadcast on the programme service of the broadcaster concerned at a time and in wording set by the Council. However this sanction can be applied in only few cases laid down by the Act.

Accordingly, preparatory proceedings being undertaken by members of the Parliamentary Committee for media and culture in regard to the amendment of the Act, might pay special attention to ensuring that a sufficiently long term is set to allow for all necessary steps of the administrative procedure to be completed, and to make the decision on financial sanction enforceable.

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