[RO] Licence Fee Dispute

IRIS 2003-8:1/25

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At the beginning of this year, the Romanian government adopted Decree No. 18/2003, amending Article 40 of Legea Nr. 41/1994 privind organizarea s,i funct,ionarea Societat,ii Române de Radiodifuziune s,i Societat,ii Române de Televiziune (Act No. 41/1994 on the organisation and functioning of public service broadcasting in Romania). The Decree amended the licence fees and the way they were collected (see IRIS 20034: 11).

Shortly after the Decree entered into force, the expert committees and subsequently both houses of parliament began to debate a law which was supposed to form the legal basis for this amendment. The Decree also entitled certain groups of people and institutions to a reduction in the licence fee.

On 5 June 2003, the Amendment adopting Government Decree No. 18/2003 was adopted. On 1 July 2003, after the act had been passed, a group of MPs filed a complaint with the Curtea Constitut,ionala (Constitutional Court), alleging that the act was unconstitutional. In particular, they thought it breached Article 114 para. 1 of the Romanian Constitution, which states that so-called "organic acts" (a specific type of statute to regulate only certain matters and with stricter requirements as to their approval, modification or repeal) may not be amended by government decrees (" Parlamentul poate adopta o lege speciala de abilitare a Guvernului pentru a emite ordonant,e în domenii care nu fac obiectul legilor organice", Constitut,ia României, art. 114, alin.(1)). Therefore, the new rules governing the amount and collection of licence fees should not have been introduced via a government decree that was subsequently adopted by Parliament. Rather, the law should have been adopted through a two-thirds majority vote of MPs. "Organic laws" require a two-thirds majority in order to be adopted. The Constitutional Court examined the complaint and upheld it in Decision No. 300 of 9 July 2003.

At its meeting on 22 August 2003, the government adopted a new decision (" Hotararea privind taxa pe serviciul public de televiziune si radioteleviziune din 22 august 2003"), reintroducing the possibility for citizens to declare that they do not own a radio or television set and thus to be exempted from the automatic collection of the licence fee as part of their monthly electricity bill. Following this decision, the radio licence fee was immediately increased from ROL 15,000 to ROL 25,000 ROL, although the television licence fee was frozen at ROL 40,000 (official exchange rate on 27 August 2003: EUR 1 = ROL 36,680). This decision

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replaces Government Decision HG No. 185/2003, which dealt with the implementation of Decree No. 18/2003 (amount of fees, etc.).

Monitorul Oficial al României, Partea I, Nr. 520/18.VII.2003: Decizia Nr. 300 din 9 iulie 2003 asupra sesizarii de neconstitut,ionalitate a Legii privind aprobrobarea Ordonant, ei Guvernului nr. 18/2003 pentru modificarea art. 40 din Legea nr. 41/1994 privind organizarea s,i funct,ionarea Societat,ii Române de Radiodifuziune s,i Societat,ii Române de Televiziune

Constitutional Court Decision No. 300 of 9 July 2003, Monitorul Oficial al României, Partea I, No. 520, 18 July 2003

Comunicat de presa al guvernului Romaniei din 22 august 2003

Romanian government press release, 22 August 2003

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