[BG] Constitutional Court Gives Ruling on State Broadcasting Service Statute

IRIS 1995-10:1/5

Radomir Tscholakov
Bulgarian National Television

On 19 September 1995, the Bulgarian Constitutional Court gave a long overdue decision on the constitutional validity of the provisional Statute of Bulgarian National Television (BNT) and Bulgarian National Radio (BNR), which provides a legal basis for the work of the state broadcasting services.

The text objected to was the the result of an agreement reached between the political groups represented in the constituent National Assembly (GNA) of 1990-91 on ways of ensuring a peaceful transition to a democratic society. The main intention was to free the broadcasting services from the control of the (socialist dominated) government and make them answerable to parliament as the supreme representative authority. A separate part of the agreement, dealing with the problems of television and radio, stated that the GNA would first adopt a provisional statute to govern their activities, and a broadcasting act very soon after that. The aim of the resolution adopted on 22 December 1990, which approved basic principles for a provisional statute for the BNT and BNR, was to lay down certain minimum requirements concerning pluralism and impartiality of programmes; it contained detailed regulations on supervision of the state broadcasting services. This task was entrusted to the Standing Parliamentary Committee on Broadcasting, whose extensive powers covered approval of the services' structure and statute, approval of programme schedules, decisions on staffing questions and even management of the financial resources of both the BNT and BNR. No broadcasting act has so far been passed, and these "provisional" regulations are still in force.

The constitutional proceedings were initiated at the request of the Attorney General, who claimed, in his application, that the provisional stature violated a series of constitutional norms, and particularly Article 40 (1) (media freedom and prohibition of censorship). It also violated the principle of separation of powers by giving representatives of government and parliament æ but not the judiciary æ free access to the airwaves. In its decision No. 16, the Constitutional Court essentially upheld the application. Specifically, it found that Article 40 (1) of the Constitution prohibited the state from interfering with the activity of the mass media. Although the BNT and BNR were state authorities, they were not government bodies, and so the right of parliament and its committees to exercise parliamentarty supervision of government did not extend to them. Moreover,

© European Audiovisual Observatory (Council of Europe) 2026

approving structures and statutes was par excellence a question of administrative law, and could never be a matter for parliament or its committees. In the powers of the parliamentary committee concerning staffing questions, the Court saw a danger of its attempting to influence the activities of the broadcasting services. It also considered that the principle of media freedom made the committee's right to hear the board of directors "at regular intervals" both "unacceptable" and unconstitutional. It stripped the committee of its power to decide on use of the funds of the BNT and BNR, and also of its right "to express opinions on programme schedules", which allowed the parliamentary majority to influence programmes. In connection with the last point, the Court found that certain basic rights in particularly the right to freedom of opinion and the right to receive and impart information which are exercised through radio and television programmes. This view is new in Bulgarian legal theory, but the Court did not expand on it. The Court also held that the principle of separation of powers made it unconstitutional to withhold access to radio and television from the judiciary and reserve it for representatives of government and parliament. On this point, it ignored the argument that giving representatives of state authorities such access was itself unconstitutional. It based its decision on the citizen's right to receive information, and did not answer the question raised by the BNT in its written opinion, where it suggested that access for state representatives might violate the principle of free expression of opinion, taken in conjunction with the prohibition on privileges. It looked to the future broadcasting act for a final answer here.

The Court's decision leaves parliament only the right to appoint and dismiss the directors of the BNT and BNR, and also to approve their annual budgets. In all other areas, the BNT and BNR are now independent. This, of course, leaves a large area unregulated æ and the gap should be filled without delay.

Judgment of the Constitutional Court, No. 16 of 19 September 1995 in constitutional case No. 19/1995.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026