

[BG] Constitutional Court Confirms Radio and TV Journalists' Right to Comment on Parties and Candidates During Election Campaigns

IRIS 1995-10:1/6

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The rule forbidding journalists or commentators on state radio and television to comment or offer opinions on political parties or individual candidates during election campaigns is unconstitutional. This was the ruling given by the Bulgarian Constitutional Court in its judgment No. 15 of 13 September 1995. The case concerned Section 62 (1) of the Local Elections Act (LEA), which prohibits journalists reporting on election campaigns from expressing personal opinions on parties or candidates, and from commenting critically on them. Fifty-two MPs, opposition representatives and the President had asked the Court for a ruling on the constitutional validity of this provision. The Court reviewed it in the light of Article 39 (1) of the Constitution (freedom of opinion), which gives everyone the right to express and propagate his opinions. It ruled that the list of restrictions on this right contained in paragraph 2 of that article was exhaustive, which meant that ordinary laws might impose no further restrictions on the free expression of opinion. Section 62 (1) of the LEA also violated Article 40 (1) of the Constitution (freedom of the press, prohibition of censorship), since the restrictions it imposed amounted to a form of media censorship. Article 41 (1) of the Constitution, which guarantees Bulgarian citizens the right to disseminate and receive information, was also violated. This was an absolute right, and no law might in any way restrict it.

The Court considers that freedom of the journalists working in the national and regional media is the best guarantee of the public's being able to find its way through, and familiarise itself with, the election programmes and ideas of the various political parties.

In this connection, the Court adds: "Without freedom of speech and the press, the possibility of holding free elections disappears, since the right of every Bulgarian citizen to information on all issues arising in connection with the elections is seriously impaired by the prohibition laid down in Section 62 (1) of the LEA. Furthermore, the journalists in the public national and regional media are people who do creative work. They do not simply record decisions and facts. Forbidding them to comment on social problems would be inadmissible. This restriction is also in conflict with the voters' most basic interests, since it violates their constitutional rights." The Constitutional Court further considers that Section 62 (2) of the LEA violates Article 19 of the United Nations Covenant on Civil and

Political Rights and Article 10 of the European Convention on Human Rights, which are, under Article 5 (4) of the Constitution, an integral part of domestic law, and take precedence over any domestic provisions which contradict them. This, in the Court's view, is the way in which the said provisions of international law must be interpreted.

Judgment of the Constitutional Court, No. 15 of 13 September 1995 in constitutional case No. 21/1995.

