[HU] Amendment of the Penal Code Annulled by Constitutional Court

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Gabriella Raskó
Media Law Expert

The amendment of the Penal Code concerning hate speech is unconstitutional according to the Alkotmánybíróság (Constitutional Court - AB).

The bill, which was adopted by the Parliament in December 2003, stipulated that anyone "who publicly incites hatred toward any nation, or national, ethnic, racial or religious groups or calls for violence against them, shall be liable to imprisonment for up to three years for such a crime". In addition, "anyone who publicly insults the dignity of a person because of his/her national, racial, ethnic or religious affiliation could be found guilty of a misdemeanour and sentenced to up to two years of imprisonment".

The President making use of his right for a constitutional veto refused to sign the bill. He asked the Court to review the legislation's coherence with the right to freedom of expression guaranteed by the Constitution.

The AB annulled the new bill and justified the decision by pointing out that it expands the punishable types of behaviour to an extent that is unconstitutional and restricts freedom of speech needlessly and disproportionately. The decision emphasizes that the "battle of opinions, views and ideas is a particular feature of a democracy. Repressing opinions or preventing them from coming out does not make those opinions non existent, and also will not stop their being spread. In a truly free society the proclaming of extreme views does not in itself cause public disturbance, but contributes to forming public order, and raising the level of tolerance. Freedom of expression also protects those opinions which are insulting, astounding or disquieting." "As the existing legal means are more efficient for protecting one's personal rights and less restrictive of freedom of speech than this new law" - AB found disproportionate the restriction that would hold out the prospect of this kind of penal sanction.

18/2004. (V. 25.) AB határozat

http://isz.mkab.hu/netacgi/ahawkere2009.pl?s1=18/2004&s2=&s3=&s4=&s5=&s6=&s7=&s8=&s9=&s10=&s11=Dr&r=1&SECT5=AHAWKERE&op9=and&op10=and&d=AHAW&op8=and&l=20&u=/netahtml/ahawuj/ahawkere.htm&p=1&op11=and&op7=and&f=G

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Constitutional Court Decision 18/2004 (V.25.)

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