[GR] Incompatibility between Media Companies and State Contracts

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The incompatibility between the ownership of media enterprises and enterprises in the field of public administration is at the center of a judicial and institutional debate in Greece. On the one hand, the principle of incompatibility is included in Article 14 para. 9 of the Constitution (as revised in 2001) which provides that this principle applies not only to the owners, but also to their spouses and relatives. On the other hand, law 3021/2002 allows a relative to prove that he/she is financially independent from the owner of a media enterprise so that the principle of incompatibility does not apply. The Symvoulio tis Epikrateias (the Highest Administrative Court) recently decided that the provision included in law 3021/2002 is unconstitutional because the Constitution essentially aims at preventing the media from exercising any influence in the procedure of contracting out public operations. The judgment (which is not final) considers that, having in mind the particular situation of relations between relatives in Greece, there is a community of interests that directly influences the financial activities of persons. The final judgment has to be pronounced by the plenary session of the court in a few months, and a decision is also expected on the question of conformity of Greek legislation with European law. The question of breaking the power of media entrepreneurs seeking access to lucrative public contracts is the subject of a new draft law presented by the Greek government on 7 December 2004. According to the new law, which is expected to be on the agenda of the Parliament as soon as possible, the close relatives with the exception of cousins of "major" media shareholders will be banned from access to state contracts. The Ethniko Symvoulio Radiotileorasis (ESR: National Council of Radio and Television, Independent Regulatory Authority), which is the public authority responsible for the enforcement of the law, will have to register all companies taking part in tenders for major public works. Furthermore, there will be a major cut, from 5 to 1 percent, as to the minimum percentage of share capital of a media enterprise whose ownership legally does not preclude businesspeople from winning state contracts. On 12 October 2004, the ESR rejected an application for a certificate to a construction company owned by Leonidas Bobolas, acknowledging the identity of interests shared by him and his father Georgios Bobolas, publisher of a daily newspaper and shareholder of a big private television station.

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Symvoulio tis Epikrateias, 3242/2004

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