[PL] Amendment of the Polish Broadcasting Act Due to a Decision of the Constitutional Tribunal

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The Broadcasting Act of 29 December 1992 (Journal of Laws of 2001 No. 101, Item 1114 with subsequent amendments), which mainly governs the audio-visual sector in Poland, has been most recently amended on 29 December 2005. Some of those amendments caused legal reservations and a lot of discussions, e.g. the fact that the Chairman of the National Broadcasting Council (NBC) should be appointed and dismissed by the President of the Republic of Poland.

Upon appeal the Constitutional Tribunal, which is authorised to review norms in the context of the principles laid down in the Constitution of the Republic of Poland, delivered its judgment in March 2006. The Tribunal found *inter alia* the above-mentioned competence of the President incompatible with constitutional principles. The Tribunal stated that such competencies were not included in the constitutional catalogue of the President's authorisations . Moreover, the Tribunal stipulated that from the date of the announcement of the sentence the present Chairman of NBC would not be allowed to hold her functions.

On 14 April 2006, due to the Tribunal's verdict, the President of the Republic of Poland passed amendments to the Broadcasting Act as follows: "The Chairman of the NBC shall be appointed and dismissed by and from the members of the Council" (Art. 7.2). The President argued that direct consequence of the Tribunal's sentence was the removal of the Chairman of NBC from her function and that from the same time the legal basis for the presidential nomination did not exist. As there was no regulation in this respect, the NBC could not act in a proper way, because of the exclusive rights of the Chairman - the organ indispensable for executing the NBC's public duties. Due to Art. 213 of the Constitution the NBC shall safeguard freedom of speech, the right to information as well as safeguarding the public interest regarding radio broadcasting and television. Therefore, NBC issues regulations and, in individual cases, adopts resolutions. The Chairman directs the NBC's works, represents it, and plays a fundamental role in the administrative procedures.

Therefore, immediate legal amendments were required. The Polish parliament enacted the above-mentioned changes on 25 April 2006 and the President countersigned them. Just after their announcement in the Journal of Laws in May 2006, NBC appointed a new Chairman.

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