[AM] Obligation to Broadcast Parliamentary Sessions Contradicts Constitution

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On 16 February 2007, the Constitutional Court of Armenia heard the complaint concerning the compliance of a number of provisions of the statute of the Republic of Armenia “Rules of procedure of the National Assembly”, with the national Constitution. This refers to the provisions obliging public TV and radio to broadcast sessions and other programmes on the National Assembly (the parliament). An appeal on the matter was made on 28 December 2006 by President Robert Kocharian of Armenia.

As reported by the Yerevan Press Club, the issue of covering parliamentary activities was raised in March 2006 when the Chairman of the Council of the Public TV and Radio Company (PTRC), Alexan Harutiunian, made a written request to the National Assembly’s Chairman with a proposal to reconsider the relations between PTRC and the parliament. In the opinion of the Chairman of the PTRC Council, the need to abolish this legislative obligation was due to the controversial situation in which the Public TV and Radio Company found itself, after it became a fully-fledged member of the European Broadcasting Union in July 2005. On the one hand, the statute of the organisation obliges the national broadcaster to retain editorial independence and the right to use the frequencies at its own discretion. On the other, the provisions of the Rules (adopted on 20 February 2002) actually impede the implementation of these requirements. The request was discussed at the meeting of the speaker of the parliament with the representatives of parliamentary factions and groups, where it was decided that no amendments would be introduced to the Rules regarding the broadcasts of parliamentary sessions.

The Constitutional Court recognised the following provisions of the statute of the Republic of Armenia “Rules of procedure of the National Assembly”, to be in contradiction with the Constitution: on mandatory broadcasting of the weekly statements by the deputies in parliament, as well as weekly question-and-answer sessions with the Prime-Minister and the ministers of the Government on specific days and hours on the First Channel of Public Television of Armenia (PTA) (clauses 3 and 4 of Article 35); on broadcasting of the open sessions of the National Assembly (NA) live on the Public Radio of Armenia; on the obligatory transmission of "Parliamentary Week" TV programmes on Sundays at 9 p.m. on the PTA’s First Channel; and on the production by the Public TV and Radio Company of the

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parliamentary programmes to be broadcast (clauses 2, 4 and 5 of Article 112).

Additionally, clause "e" of Article 49 was recognised as being in contradiction with the Constitution. The clause lists the decision of whether to broadcast parliamentary sessions live or recorded, as being among the decisions that the parliament is entitled to make in organising its affairs.

In the justification of the Court decision it is noted, in particular, that the amended Constitution (adopted in a referendum of 27 November 2005, see IRIS 2006-2: 7) "posed new demands upon the guarantees of freedom and independent activities of the media". Ensuring these guarantees imposes on the National Assembly the task of "reconsidering the context of and harmonising with the Constitution" the statutes "On Television and Radio", "On the Mass Communication", "Rules of procedure of the National Assembly" and relevant provisions of other statutes, referring to this issue. According to the Constitutional Court, in the selection of any of the possible ways of solving the issue of covering the parliamentary activities "legal guarantees should be created so as not to endanger the insurance of transparency and political plurality in the practice of public service broadcasting". The Court believes that in the resolution of this issue, the NA should primarily be guided by Articles 27, 83.2 of the Constitution, as well as the stipulations of Recommendation R(96)10 of the Council of Europe's Committee of Ministers, and the Explanatory Memorandum to it, and by the "Public Service Broadcasting" Recommendation 1641(2004)1 of the Parliamentary Assembly of the Council of Europe.

Statute of the Republic of Armenia "Rules of procedure of the National Assembly"

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