[LV] Supreme Court Confirms the Necessity of Reasoning in Decisions on Broadcasting Licenses

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On 14 June 2007, the Administrative Department of the Supreme Court Senate of the Republic of Latvia confirmed the accuracy of the judgement of the Regional Administrative Court with respect to the decision of the National Broadcasting Council (for more detail, see IRIS 2007-3: 16). The Supreme Court agreed with the Regional Court that decisions on granting of broadcasting licenses and on the respective tender results must be sufficiently reasoned.

The National Broadcasting Council had appealed the judgement of the Regional Administrative Court as of 4 January 2007, which declared that the decision of the National Broadcasting Council on the results of a radio broadcasting license tender was invalid due to a lack of reasoning. The argumentation of the judgement applies equally to the radio and television broadcasting licenses. In its appeal, the National Broadcasting Council argued that the decision on the tender results had a basis, and that was the applicable section of the Radio and Television Law. The Radio and Television Law does not require such decisions to be reasoned, moreover, the decisions are adopted by a voting method, which excludes a possibility of joint reasoning.

The Supreme Court, in substance, approved the arguments of the Regional Court, nevertheless indicating certain legal peculiarities, which the Regional Court had failed to assess correctly. E.g., the Supreme Court explained that the decision on the results of a broadcasting tender is not in itself an administrative act, but rather a preliminary decision. However, as it is the final decision with respect to those persons who do not win the tender, it may be appealed in the court as an administrative act. The Supreme Court agreed with the arguments provided in the judgement of the Regional Court, namely, that the decisions on the results of broadcasting tenders must be sufficiently reasoned. This will have the purpose of allowing any third party to understand if the National Broadcasting Council has used its powers correctly and if this decision is proportionate. The National Broadcasting Council has to evaluate all tender applications, taking into account criteria mentioned in the Radio and Television Law, such as the type of suggested programme, audience, language etc. The results of such an assessment must be indicated in the final decision. As regards voting, the Supreme Court pointed out that the voting is only a method for adoption the decision, and it does not abolish the necessity to provide the reasoning for the decision.

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The judgement of the Supreme Court is final and cannot be appealed.

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http://www.tiesas.lv/files/AL/06_2007/14_06_07/AL_1406_AT_SKA-255_2007.pdf

Judgement of the Administrative Department of the Supreme Court Senate of the Republic of Latvia, 14 June 2007

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