

[RS] Supreme Court Annuls SBA Decisions on RTV Tender

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On 11 July 2007, the Supreme Court of Serbia published its decision on annulling the decisions of the Serbian Broadcasting Agency (SBA) with reference to national broadcasting coverage and broadcasting coverage for the region of Belgrade. The Court decided in favour of eight plaintiffs (radio and TV stations), the most prominent being the RTL Group, and ordered the SBA to reconsider its decision and to make a new one that would be fully correct and legal.

The reasoning of the Supreme Court decision shows that the court found that the SBA had breached the obligation of due process as provided for in the Broadcasting Act, and decided arbitrarily instead of on the basis of measurable criteria that it should have established. “The Council of the SBA had the duty to comprehensively, completely and clearly determine the facts and to point out concrete reasons, facts and circumstances on the basis of which it has granted broadcasting licences to each individual tender participant, and why the applications for broadcasting licences of all other tender participants were rejected”, stated the Court in its decision. The Council of the SBA decided on the applications by means of a ‘shortcut’ - it determined that all the applicants fulfilled the conditions for a licence, as laid out in the Broadcasting Act, and simply voted on which of the applicants should get a licence, without even attempting to compare the submitted applications. The justification for that decision was simply “that is how we voted”, and nothing else. The Supreme Court confirmed the positions of some lawyers that this approach and behaviour is in contravention of the Broadcasting Act, and annulled the SBA decisions.

The SBA is expected to pass a new decision on the national and Belgrade licences within 60 days.

