[GR] Provisions Regarding the Functioning of TV Stations without a License Are Held as Unconstitutional

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The necessity of a new tender, which will actually result in the issuing of radio and television licenses is proving even more imperative, after a decision delivered by the State Council (StE) on 2 October 2007. This decision found that two legal provisions were unconstitutional, provisions that permitted all regional television stations that had participated in the tender of the year 1998 to function even beyond a “reasonable” period of time after this tender was published, which resulted in de facto *broadcasting activities without a clear official framework within which to operate in certain aspects* . According to the decision, these provisions are contrary to the principles of the Rule of Law, human dignity (and the subsequent obligation of the State to guarantee the enforcement of the law), and equality.

If the Plenary Session of StE (which is responsible for reaching the final decision on constitutional matters) approves the aforementioned decision, all of these stations may not be able to challenge any decision on their activities made by the Greek National Council for Radio and Television (ESR) before the courts. A prerequisite for such an action is legal interest, which is not proven if it is based on unconstitutional provisions.

The body responsible for putting out a new tender is the Greek National Council for Radio and Television (ESR), but this will occur only after two Ministerial decisions are taken on the Frequency Chart and on the nature of Radio or Television Services to be offered by the applicants (broadcasting news or not).

At the end of September 2007, the Ministers of Communication and State (responsible for Radio and Television) presented a Transitional Frequency Chart, which contains new frequencies for analogue and digital terrestrial television, based on the work of a scientific group of the Polytechnic University of Athens. This work should be the basis of the future Ministerial decision on the Frequency Chart, expected to be taken in the next few months.

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State Council Decision, StE 2784/2007, 2 October 2007

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