[PL] Constitutional Tribunal Judgment on the Act on Licence Fees

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On 4 November 2009 the Constitutional Tribunal assessed a motion of the Polish President to examine the conformity of certain provisions of the Act of 13 June 2008 amending the Act of 21 April 2005 on Licence Fees with the Constitution.

The motion relates to provisions enlarging significantly the group of persons being exempt from the duty to pay licence fees. Concerns have been expressed that this might infringe the principle of legal security and the rule of law.

Previously the following persons were exempted from the payment of licence fees:

1) persons who have been adjudged to:

a) be classified as invalids of group I,

b) be totally incapacitated for work and unaided existence pursuant to the Act of 17 December 1998 on Old Age and Disability Pensions from the Social Insurance Fund,

c) have a serious degree of disability pursuant to the Act of 27 August 1997 on Occupational and Social Rehabilitation and on Employment of Disabled Persons,

d) be permanently or temporarily totally incapacitated for work on a farm pursuant to the Act of 20 December 1990 on Social Insurance of Farmers and who are entitled to a nursing allowance;

2) senior citizens over 75 years;

3) persons who receive a nursing benefit from a competent authority that performs tasks related to family benefits, mandated as tasks falling within the scope of government administration, or a social pension from the Social Insurance Board or any other authority in charge of old-age and disability pensions;

4) deaf persons with ascertained anacusis or ambilateral hearing loss;

5) the blind whose visual acuity does not exceed 15%.

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The Act in question exempted in addition inter alia all pensioners over 60 years, whose pensions do not exceed 50% of the average remuneration, persons sent to internment camps during the state of war, unemployed persons, and beneficiaries of social care.

It has been observed that extending the group of persons exempted from the licence fee payment obligation will result in a serious loss in the revenues of public radio and TV broadcasters, which might endanger the proper functioning of public media.

According to the Tribunal the legislator had the right to enlarge the group of persons exempted from the licence fee obligation as such an act is within its discretion. The lawmaker's discretion comprises not only the issue of exemption from the licence fee obligation, but also other issues connected with the functioning of public radio and TV, including the rules of financing and the amount of public funds allocated to the fulfillment of the public remit.

The Tribunal found that the fulfillment of the public remit is impossible without ensuring adequate financial outlay coming from public means. Still, it is up to the legislator to establish the tasks of public media and the way financing them.

Komunikat prasowy po rozprawie dotyczącej abonamentu radiowo - telewizyjnego and Dodatkowy Komunikat prasowy

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