European Commission: Legislation Guaranteeing the Independence of Slovak Telecoms Regulator

IRIS 2010-8:1/5

Jana Markechová
Markechova Law Offices

On 26 February 2010 Act No. 56/2010 Coll. amending Act No. 610/2003 Coll. on Electronic Communications ("ECA") was published in the Collection of Laws of the Slovak Republic. The particular Amendment of the ECA ("Amendment") was approved by the National Council on 3 February 2010 and came into effect on 1 April 2010.

As well as guaranteeing the independence of the *Telekomunikačný úrad Slovenskej Republiky* (Telecommunications Regulatory Authority of the Slovak Republic - TÚSR), the Amendment also lays down the legal means for guaranteeing an efficient granting of subventions by the Ministry of Transport, Posts and Telecommunication and introduces technical legislative changes resulting from Regulation (EC) No. 544/2009 amending Regulation (EC) No. 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services.

The subject matter of the ECA, which came into force on 3 December 2003, mainly concerns the governing of the conditions for the provision of electronic communications networks and services, for using radio facilities, the State regulation of electronic communications, rights and obligations of undertakings and users of electronic communications networks and services, and protection of these networks and services, whereas the purpose of this Act is to create the conditions for the development of competition in the field of electronic communications in the Slovak Republic. TÚSR - being the national regulatory and pricing authority in this sector - was vested with the task of undertaking regulation and all its activities, as well as publishing its decisions in line with the principles of efficiency, objectivity, transparency, non-discrimination, adequacy and legitimacy.

On 4 December 2008 the National Council dismissed the chairman of TÚSR upon a proposal of the Slovak Government. According to the Government, the regulator had failed to fulfill its tasks in accordance with the national legal framework and with the goals and principles of the national policy for electronic communications during a call for tender for digital terrestrial frequencies. The European Commission emphasised that such a measure by the national government and

© European Audiovisual Observatory (Council of Europe) 2026

the rules that allow it are not in line with EU rules. The particular rules require national laws to ensure the independence of the regulator from interference that could have an effect on the impartiality of its decisions. As a result the Commission expressed concerns about Slovakia not adequately protecting the independence of TÚSR, on 14 May 2009. In order to guarantee the neutrality, sovereignty and independence of national regulators the governments and parliaments are according to EU telecoms rules only allowed to remove the chairman/vice-chairman in limited circumstances when serious conditions for such a decision are met. Since the ECA did not comply with the respective EU regulations, the Commission sent a letter of formal notice to Slovakia, i.e., the first stage of an infringement proceeding.

Subsequently Slovakia committed itself to modifying its national legislation. According to s. 7(9) of the Amendment the National Council shall remove the Chairman and the Government shall remove the Vice-Chairman, if they hold any position in a political party or movement, or hold any position in any other State office or on a body of a legal entity established by law as a public institution; if they are employees, associates or agents of a legal entity, members of its statutory body, controlling body, supervisory body, or employees of a natural person; if they either have a share interest in the registered capital or possess voting rights in these entities, provided these persons are network operators, service providers or both; or if they undertake other gainful employment. The Vice-/Chairman shall also be removed if he/she were found guilty of an intentional crime, if the accused person has agreed on a settlement or the criminal proceedings on the intentional crime have been conditionally terminated; if he/she were found guilty of non-intentional crime and sentenced to unconditional imprisonment; if he/she were deprived of the capacity to perform legal acts or if his/her capacity was limited or if he/she had not performed his/her function for a period of at least six consecutive months. The Vice-/Chairman may also be removed if the TÚSR does not fulfill its tasks in line with the ECA, s. 7(10).

Consequently, the Commission decided to close the infringement proceeding against Slovakia as the Slovak legislation is now respecting the independence of the national telecoms regulators as required by European law.

Press release of the European Commission, IP/10/806 of 24 June 2010

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/806&format=HTML&aged=0&language=EN&guiLanguage=en

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026