[BG] Judicial Review of the Public Digital Multiplex Completed

IRIS 2012-3:1/11

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On 16 January 2012 the Supreme Administrative Court rejected the appeal of DVBT (a group of seven companies led by Insat Electronics that support the networks of television Pro.bg and radio Express, Darik and FM+) against the choice of the Latvian company Hannu Pro to build up a so-called public multiplex (see IRIS 2010-8/16). The public multiplex will distribute the programmes of BNT and BNR from October 2013 (see IRIS 2009-7/5).

DVBT ranked second in the competition conducted by the Communications Regulation Commission with a score of 0.3 points lower than Hannu Pro. According to the company's appeal, pressure has been exerted on the working group’s members in order to manipulate the assessments in favour of Hannu Pro. The company has previously been granted three more multiplexes in Bulgaria. On 8 December 2011, during the court meeting, the appeal by DVBT was supported by the prosecutor on that case. He said that the choice of Hannu Pro was unlawful and contrary to EU Directives that encourage competition in the media market.

The Supreme Administrative Court rejected making a request for a preliminary ruling to the European Court of Justice because the answer comes clear and unambiguously from a decision of the Court of Justice in a similar case: C-380/05 (Centro Europa 7 Srl v. Ministero delle Comunicazioni e Autorita per le garanzie nelle comunicazioni and Direzione generale per le concessioni e le autorizzazioni del Ministero delle Comunicazioni, see IRIS 2008-7/25).

Competitions have been conducted for six multiplexes so far (see IRIS 2011-4/12). The first two of them have been won by the Slovak company Towercom and the remaining four by Hannu Pro. According to some publications in the Bulgarian media both companies are directly or indirectly connected to the owner of the Corporate Commercial Bank, which is participating in the purchase of NURTS (a network for analogue television broadcasting).

Решение № 772 от 16.01.2012 г. на Върховния административен съд, Петчленен състав, II колегия

http://www.sac.government.bg/court22.nsf/d038edcf49190344c2256b7600367606/c552e08e79cb2aa8c2257987002c182c?OpenDocument

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Decision № 772 of the Supreme Administrative Court, five-member jury, II College, 16 January 2012

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