[DE] Constitutional Court Confirms Broadcasting Tax Applies to Internet PCs

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On 22 August 2012, the Bundesverfassungsgericht (Federal Constitutional Court - BVerfG) rejected a lawyer's complaint about the obligation to pay a broadcasting tax for his Internet-capable PC, which he used for his work.

The lawyer had claimed that his basic rights to freedom of information (Art. 5 of the Grundgesetz (Basic Law) - GG) and occupation (Art. 12 GG) had been infringed. He also complained that he had been treated unequally (Art. 3 GG) vis-à-vis people who did not own such reception equipment. The lawyer claimed that, although he used his PC for Internet applications at work, he did not receive any broadcast programmes through it. There were no other broadcast reception devices at his workplace.

Ruling shortly before the introduction of the new broadcasting tax, applicable regardless of reception equipment, the BVerfG confirmed that the levying of the previous broadcasting tax for an Internet PC used for work purposes did not infringe any basic rights.

The court ruled that the levying of broadcasting taxes for Internet-capable devices did not breach the fundamental right to freedom of information. Although it recognised that such a tax made it more difficult for the plaintiff to obtain information from the Internet, this intrusion was reasonable and therefore constitutionally justified. The broadcasting tax helped to finance public service broadcasting and was a suitable and necessary means of achieving this objective. Technical measures to block access to public service channels were a less effective means of funding public service broadcasting. They were easy to bypass and conflicted with public service broadcasters' duty to provide a universally accessible service.

The broadcasting tax for Internet PCs was also not unreasonable. The financial cost to the plaintiff was small in comparison with the vital importance of ensuring the proper functioning of public service broadcasting.

The court gave short shrift to the plaintiff's claim that his freedom of occupation had been infringed. Such freedom had clearly not been breached, since the tax had no direct impact on the lawyer's professional activity and therefore did not affect his occupation.

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Finally, the court also rejected the argument that the general principle of equality had been breached. The equal treatment of owners of traditional and more modern broadcast reception devices was based on the sensible and reasonable principle that people should be prevented from “evading the broadcasting tax” and that the proper financing of public service broadcasting should thus be guaranteed.

The unequal treatment of Internet PC owners and people who did not own such devices was also justified. The benefit of having access to a reception device also constituted an objective distinguishing criterion.

Beschluss des Bundesverfassungsgerichts vom 22. August 2012

http://openjur.de/u/506450.html

Decision of the Federal Constitutional Court of 22 August 2012

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