[HU] Amendment of Hungarian Constitution regarding Political Advertising

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On 4 January 2013, the Magyar Köztársaság Alkotmánybíróság (Constitutional Court of Hungary) annulled the new Election Act which a.o. amended regulations on political advertising. The provisions gave the exclusive right to disseminate political advertisements to the public service media. Subsequent to the ruling, the government submitted a draft amendment to the Magyarország Alaptörvénye (Fundamental Law, Constitution of Hungary). The content of the amendment implements the wording of the provision, which the Constitutional Court had eliminated, into the Constitution.

On 26 November 2012, Hungary's Parliament had passed a new law regulating the election process ("New Election Act") that sought to implement a number of changes to Act C of 1997 on Electoral Procedure ("Old Election Act"), including revisions to the provisions regulating political advertising in the media.

The Old Election Act foresaw the institution of campaign silence, which permitted commercial and public media service providers to run political advertisements during the roughly fifty-day period from the announcement of the elections until midnight preceding the election day. Campaign silence was prescribed by the Act in favor of the free development of the voter's will by guaranteeing them time to consider their decision calmly before voting. The New Election Act extended this campaign silence to 48 hours preceding the election day.

But more importantly, the New Election Act should provide the public service media with the exclusive right to show political advertising. According to this legislative concept, commercial and community media providers would have been prohibited from disseminating political advertisements. Consequently, public service media would have been the sole source of electoral information. No other media provider would have been able to take part in the electoral process since not only political advertisement but also reports about the parties' programmes and candidates would have been forbidden.

The President of the Republic vetoed the New Election Act on constitutional grounds and objected to an infringement of the freedom of media and information as provided by Article 9 of the Magyarország Alaptörvénye. Equality between the media providers, both public and commercial, should be upheld in favor of

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pluralistic electoral coverage. Following the President's reasoning, the Constitutional Court eliminated the relevant provisions in its ruling of 4 January 2013. Not only did the Court find that the exclusive right of the public service media to disseminate political advertisements infringes the freedom of the media but also the citizen's right to information.

On 8 February 2013, supported by two-thirds of the Parliament, the Government submitted an amendment seeking to incorporate the exclusive right of public service media in the corpus of the Constitution itself as section 3 of the aforementioned Article 9. The National Assembly passed the bill amending the constitution on 11 March 2013.

Ügyszám: I/03653/2012 Első irat érkezett: 06/12/2012 Az ügy tárgya: az Országgyűlés által 2012. november 26-án elfogadott, a választási eljárásról szóló törvény (T/8405. számú törvényjavaslat) tárgyában előterjesztett előzetes normakontroll

http://public.mkab.hu/dev/dontesek.nsf/0/9C05BC19C310A316C1257ADA0052476B?OpenDocument

Constitutional Court's Resolution of No. 1/2013 I. 7. AB of 4 January 2013

Magyarország Alaptörvényének negyedik módosítása

http://www.parlament.hu/irom39/09929/09929.pdf

Draft of the Fourth Amendment to the Fundamental Law of Hungary of 8 February 2013

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