[GR] Crisis over the Public Service Broadcaster

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Alexandros Oikonomou
National Council for Radio and Television

On 11 June 2013, the Greek government decided to close down the public service broadcaster "Elliniki Radiofonia Tilieorasi S. A." (a company owned by the Greek State and employing more than 2600 employees). On the same evening, Simos Kedikoglou, spokesman and deputy-minister responsible for the media, characterised ERT as a "typical example of unique lack of transparency and incredible waste" and attributed its sudden close to the fact that there was no room for delay. At 23:10h, all three national channels of ERT went black and seven national radio channels were turned off.

Many reactions to this sudden decision, coming from national, European and international organisations, condemned the government's decision. Even those who promote structural reforms in Greece agreed that the action taken by the government was not acceptable.

As far as legal texts are concerned, the government took a co-ministerial decision containing five points: (a) abolition of ERT, (b) interruption of transmission of radio and television signals and of operations of websites owned by ERT, (c) transference of all assets and liabilities to the State, (d) inaction of all frequencies until a new public service broadcaster is established and (e) revocation of all work contracts. With a second co-ministerial decision, provisions for the nomination of a special administrator responsible for the liquidation of ERT during this transitional period were issued. Furthermore, a draft-bill regarding the new public service broadcaster was presented by the government and is to be submitted to the Parliament. This text is almost the same as the one elaborated one year ago by a special committee of experts presided over by N. Alivizatos, professor of Constitutional Law in the Athens Faculty of Law (see IRIS 2012-5/25). However there are changes altering the original text, i.e. the procedure aimed at guaranteeing an independent selection of the members of Supervisory Body is not followed for their first nomination.

On Monday 17 June, a major breakthrough in this period of crisis was the publication of a special ruling (Temporary Injunction) of the President of the Council of State (High Administrative Court), which was hailed as overturning the first co-ministerial decision. According to the ruling, the enforcement of the co-ministerial decision is suspended "exclusively with regard to its b) and d) items" (interruption of transmission of radio and television signals and of operations of

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websites owned by ERT and inaction of all frequencies until a new public service broadcaster is established). Competent ministers should take "necessary organizational measures for the resumption of radio and television signal transmissions as well as the operation of websites owned by a public service broadcaster until the activation of a new broadcaster(...)".

A legal explanation of his decision came three days later with the publication of Decision 236/2013 of the Committee of Suspension (Επιτροπή Αναστολών) of the Council of State, composed of the President of the Court and four Councilors. Judges considered firstly that it is imperative to rationalise the organization of public service broadcasting through the creation of a new organism in order to serve the requirements of the Constitution, the democratic, social and cultural needs of society and the need to preserve media pluralism. This is why they rejected the idea that moral or economic damage to ERT's staff could justify the suspension of the entire co-ministerial decision.

Furthermore, the High Administrative Court mentioned the irreversible damage caused by the two aforementioned items of the co-ministerial decision, given that the public service broadcaster, having to serve the public interest and other constitutional purposes, must observe the principle of continuous operation that governs Public Administration. According to the majority of this Committee of the High Court (four judges), only b) and d) items of the co-ministerial decision are suspended, but all measures, including the recruitment of necessary staff for the transition, must be taken as quickly as possible.

However one judge underpinned the fact that the abolition of the legal entity of the ERT without the simultaneous creation of a new equivalent institution capable of ensuring the rights and obligations as a public service administrator, could cause damage to the applicants as employees charged with the execution of a public service. For this reason and in view of the principle of continuity in public services, this dissenting judge voted for the suspension of the entire decision.

Finally, on 21 June 2013 the Finance Ministry announced that it has already instructed the Bank of Greece to pay two monthly salaries to permanent workers of the former ERT as a first installment towards the total compensation and that it is in the process of identifying 2.000 posts necessary for the functioning of the transitional body.

Αριθ. ΟΙΚ.02/11.6.2013: Κατάργηση της δημόσιας επιχείρησης «Ελληνική Ραδιοφωνία – Τηλεόραση, Ανώνυμη Εταιρεία (ΕΡΤ – Α.Ε.)», (ΦΕΚ Β' 1414/11.6.2013)

http://nomoi.info/%CE%A6%CE%95%CE%9A-%CE%92-1414-2013.html

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Decision No. OIK.02/11.6.2013 Abolishing public company "Greek Radio - Television, SA (ERT -A.E.)."

Αριθμ. οικ. 03/12.6.2013: Τροποποίηση της υπ' αριθμ. ΟΙΚ. 02/11.06.2013 κοινής απόφασης του Υφυπουργού στον Πρωθυπουργό και του Υπουργού Οικονομικών (ΦΕΚ Β' 1423/12.6.2013)

http://www.taxheaven.gr/laws/circular/view/id/16614

Decision 03/12.6.2013: Modification of the co-ministerial decision concerning the special administration of ERT

Νέα Ελληνική Ραδιοφωνία, Ίντερνετ και Τηλεόραση

http://www.minpress.gr/minpress/nerit_2.pdf

Draft bill on New Greek Public service Broadcaster

Προσωρινή Διαταγή της 17.6.2013 του Προέδρου του Συμβουλίου της Επικρατείας, επί της από 12.6.2013 αίτησης αναστολής της ΠΟΣΠΕΡΤ

http://www.ste.gr/portal/page/portal/StE/ProsfatesApofaseis#a268

Injunction of the President of Council of State after a petition for temporary legal protection of syndicat of ERT's employees, 17 June 2013

Απόφαση Επιτροπής Αναστολών 236/2013 της 20.6.2013 επί της από 12.6.2013 Αιτήσεως Αναστολής της ΠΟΣΠΕΡΤ

http://www.ste.gr/portal/page/portal/StE/ProsfatesApofaseis#a269

Decision of the Committee of Suspensions after a petition for temporary legal protection of syndicat of ERT's employees, 20 June 2013

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