[CY] Amendments to Public Broadcaster Law in breach of the Constitution of Cyprus

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Christophoros Christophorou
Council of Europe expert in Media and Elections

The plenary of the Supreme Court decided that amendments to the law on RIK - the Cyprus Broadcasting Corporation -, L. Chapter 300A, were in breach of Article 28 (equality before the law) of the Constitution of Cyprus. The amendments subject the operation of new channels to the condition that the economic viability of existing audiovisual media service organisations would not be threatened, and further prohibit the inclusion of advertising and commercial announcements addressed to the territory of the Republic of Cyprus in re-transmitted broadcasts from other EU or third countries. The Court decided on a reference by the President of the Republic of the amending Law on RIK of 2016, voted in April 2016 by the House of Representatives. Similar amendments were included in the Law on Radio and Television Organisations L. 7(I)/1998 that governs commercial audiovisual media service providers.

The Supreme Court's verdict was made in the light of its decision, on the same day, which cancelled similar amendments to the Law on Radio and Television Organisations 7(I)/1998, in reference 5/2016. It found those amendments in conflict with Articles 49 and 56 of the Treaty on the Functioning of the European Union (TFEU). Thus, following the aforementioned decision, the parties in the case accepted that the amendments to the law on the public service broadcaster, RIK - Cyprus Broadcasting Corporation, Chapter 300A, could not remain in force. Otherwise, they would be in conflict with the Constitution and namely with Article 28, on equality before the law. This would create a different environment for RIK and for the other providers of audiovisual media services, discriminating against RIK without any justification. According to the court, this would also be in conflict with the Audiovisual Media Service Directive 2010/13/EU and in particular with Article 2 in Part II - General provisions that stipulates that each member state ensures that all audiovisual media services transmitted by providers under its jurisprudence observe the rules of the laws that are in force in that member state. The court also noted that in the preamble of the Directive, member states are expected to establish the same rules for all providers of audiovisual media services in the internal market.

In the light of the above, the Supreme Court concluded that the voted law could not be promulgated because it would be in conflict with the Constitution. Thus, it was cancelled as unconstitutional.

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ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ ΚΥΠΡΟΥ (ΑΝΑΦΟΡΑ ΑΡ. 4/2016)Αναφορικά με τα Άρθρα 52 και 140 του Συντάγματος. 6 Σεπτεμβρίου, 2017

http://www.cylaw.org/cgi-bin/open.pl?file=/apofaseis/aad/meros_3/2017/3-201709-4-16Anaf.htm

Supreme Court, Case 4/2016, President of the Republic Vs The House of Representatives, 6 September 2017

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