[RO] The PBS Act, back to the Parliament

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On 18 December 2017, the Romanian President, Klaus Iohannis, sent the Act for amending and completing Law No. 41/1994 on the organisation and functioning of the Romanian Radio Broadcasting Society and the Romanian Television Society (see IRIS 2013-5/37, IRIS 2013-10/36, IRIS 2014-1/38, IRIS 2014-2/30, IRIS 2014-4/25, IRIS 2014-6/30, IRIS 2014-7/30, IRIS 2015-6/33, IRIS 2015-8/26, IRIS 2016-5/28, IRIS 2017-3/26, IRIS 2017-8/31 and IRIS 2017-10/31) to Parliament for review.

We should recall that the two chambers of the Romanian Parliament, the Senate and the Chamber of Deputies, had re-examined and adopted the Law for amending and completing Act No. 41/1994 on 27 November 2017 and, respectively, on 11 October 2017, accepting all the objections of the Constitutional Court of Romania, which had rejected some modified articles of the mentioned act on 12 July 2017.

The law establishes new rules with regard to the appointment and removal from office of the members of the governing bodies of the two public broadcasters, the applicable incompatibilities and their attributions. In the form transmitted for promulgation, President Iohannis considered that the law contained provisions that are either unclear or may affect the functioning of the two societies. Iohannis draws attention to the unclear, imprecise, non-quantified criteria (on managerial experience and decision-making; knowledge of public radio and TV broadcasting legislation, as well as audiovisual legislation; and knowledge of at least one foreign language of international circulation) that the persons who can be appointed as members of the Board of Administration of Radio Romania and the Romanian Television, respectively, must meet.

The President also considered that the obligation for members of the Board of Administration to give up membership of the governing bodies of trade unions should be extended, consistent with the obligation for members of the Board to give up leading positions within a political party. At the same time, the interdiction for members of the Board of Administration to hold leading positions in commercial societies acting in the audiovisual field and to have shares in commercial societies which have business relations or opposite interests with the public broadcasters, should be extended to members of the Board of Directors (the Steering Committee - the executive management body).

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According to the President, another weak point is that the act only regulates the interim management of the public broadcasters in the event of the dissolution of the Board of Administration and has no provisions with regard to the interim management (Director General plus Board of Directors) in the event of the Board of Administration's dismissal as a result of the Parliament's rejection of the annual report. The act does not cover the hypothesis that the interim Director General resigns after the dissolution/dismissal of the Board of Administration. The President argued that for some of the duties of the Board of Administration, of its Chairman and those of the Director General, it is unclear who would exercise them because some of them are repeated, while other tasks are not correlated with the legal provisions in force.

The President mentioned that in the new draft law, the appointment of the members of the Board of Directors will be carried out without competition; he considers that the membership of this forum should be based on objective criteria, which can only be ensured by organising a competition.

Concerning the composition of the committee to select the management projects of the candidates for the position of Director General, there are no clear criteria for at least 4 of the 7 members (proposed by the President of the Council and approved by the Council) that go beyond the political sphere; they may even be people working on rival radios, televisions or publications, which could affect the proper functioning of the two public companies. In addition, the Head of State said that the law should also circumscribe the areas from which these specialists can come.

According to President Iohannis, in order to ensure the clarity, precision and predictability of the law, the objective causes of weak management from which the Director General may be removed from office before the expiration of his mandate by the majority vote of the Board of Administration, should be clearly defined and listed according to the type of liability (criminal liability, administrative-disciplinary liability or contractual liability).

Cerere de reexaminare asupra Legii pentru modificarea și completarea Legii nr. 41/1994 privind organizarea și funcționarea Societății Române de Radiodifuziune și Societății Române de Televiziune

http://www.presidency.ro/ro/media/comunicate-de-presa/cerere-de-reexaminare-asupra-legii-pentru-modificarea-si-completarea-legii-nr-41-1994-privind-organizarea-si-functionarea-societatii-romane-de-radiodifuziune-si-societatii-romane-de-televiziune

Request for review of the Act on amending and completing the Act no. 41/1994 on the organization and functioning of the Romanian Radio Broadcasting Corporation and the Romanian Television Society

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