[BG] Amendment in the media law due to the update of the CEM

IRIS 2018-8:1/9

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In March 2018, the President of the Republic of Bulgaria, Rumen Radev, referred to the Constitutional Court with a request to declare a specific part of the Radio and Television Act (RTA) as being unconstitutional (file no. 7/2018, rapporteur: Konstatin Penchev). This request concerned Article 24 (Amended, SG No. 47/2010, effective 22.06.2010):

"(1) The Council for Electronic Media (CEM) shall consist of five members, of whom three shall be elected by the National Assembly and two shall be appointed by the President of the Republic.

(2) The National Assembly resolution and the presidential decree referred to in Paragraph (1) shall enter into force simultaneously."

The head of state is of the opinion that Article 24 (2) of the RTA contradicts the conception laid down in the regulations for the establishment of the Council for Electronic Media. It causes inadequate management due to the fact that the periods when the parliament and the president have to update their quotas differ. According to Radev, the contested rule violates the principle of the division of power and the terms of office.

The problem with the rotation of the CEM's panel and the change of timing in the appointment of its members started in 2010, when, by means of an amendment to the law, the panel was reduced from 9 to 5 members. This change was, essentially, a divergence from the model for updating the panel that had been established in 1998 (IRIS 2010-8/18). At that time, Article 24(2) was not annulled by the Constitutional Court. In the case that has been brought before the Constitutional Court now, the reason for approaching the court was that the mandate of a CEM member in the President's quota had come to an end in June 2018. Up to that moment, the President had been waiting for the nomination of the Parliamentary 'quota' so that the decision of the National Assembly and the President's decree could be enforced at the same time, in accordance with the law. During the first rotation, after the reduction in the number of members (in 2012), there was a temporal discrepancy between the mandates of the CEM members from the two quotas which were nominated by the two different institutions.

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Quota of the National Assembly: Sofia Vladimirova (27 April 2016 – 27 April 2022); Ivo Atanasov (23 July 2013 – 23 July 2019) and Rozita Elenova (27 April 2016 – 27 April 2022).

Quota of the President: Maria Stoyanova (1 June 2012 – 1 June 2018) and Betina Joteva (27 April 2016 – 27 April 2022).

The provision of Article 24(2) RTA caused problems for future members of the CEM selected by the President when taking office. They would have had to wait for the expiry of Ivo Atanasov's mandate at the end of July 2019 so as to observe the requirement that envisages the decision of the National Assembly and the President's decree to be enforced simultaneously and to overcome the discrepancy in nomination periods.

Before the Constitutional Court had taken a decision, the National Assembly accepted an amendment in the act in a very quick procedure (the State Gazette, issue 44, dated 29 May 2018); through it, paragraph 2 of Article 24 was deleted. Consequently, on 4 June 2018, the Constitutional Court terminated the constitutional proceedings through lack of subject matter. Maria Stoyanova resigned after the expiry of her mandate and her resignation was voted on in a session of 5 June 2018, after which her position became vacant. The President appointed his representative on 28 June 2018.

Законът за изменение на Закона за радиото и телевизията

http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=126659

Amendment Act of the Radio and Television Act, adopted by the 44th National Assembly on 16 May 2018

Определение за прекратяване на конституционно дело

http://www.constcourt.bg/bg/Acts/GetHtmlContent/baaf6313-cb65-411b-a98e-283082d35579

Order to terminate a constitutional case of the Constitutional Court, 4 June 2018

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