[DE] Federal Constitutional Court finds broadcasting fee broadly compatible with German Constitution

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In a decision of 18 July 2018 (Case no. 1 BvR 1675/16), the Bundesverfassungsgericht (Federal Constitutional Court - BVerfG) declared that the German broadcasting contribution fee, which has been levied on every household to fund public service broadcasting in Germany since 2013, was broadly compatible with the German Constitution.

In accordance with Article 2 of the Rundfunkbeitragsstaatsvertrag (Inter-State Agreement on the broadcasting contribution fee), the broadcasting contribution fee must be paid by every adult homeowner in Germany, regardless of how many public broadcasting services they actually use. The owners of multi-occupancy homes are jointly liable to pay the fee, which also covers any private vehicles they may own. Under the current rules, owners of second homes must pay another (reduced) fee to cover the use of broadcasting services in those homes. Institutions and businesses must also pay the fee, the size of which depends on the type of establishment and the number of employees, company vehicles and premises used. The Constitutional Court had received a number of complaints about this system, which replaced a device-dependent broadcasting fee.

The court decided that the broadcasting fee was broadly compatible with the Constitution. It meant that people who had the opportunity to benefit from the use of public service broadcasting could contribute to the costs, regardless of whether they actually made use of that opportunity. The possibility of business-related use also justified the arrangement whereby owners of business premises and of vehicles that were not solely for private use had to pay an additional fee.

Upholding a fee-payer’s complaint that he should not have to pay the broadcasting fee for his second home, the Constitutional Court ruled that owners of more than one home should not have to pay the full fee for private use more than once. In this connection, the court decided that a fee-payer should not have to pay more than once for the same benefit, since this was incompatible with the principle of equality enshrined in Article 3(1) of the Grundgesetz (Basic Law - GG). It has therefore asked the legislature to adopt a new rule by 30 June 2020. Until then, however, owners of more than one home can apply to the ARD ZDF Deutschlandradio Beitragsservice, which collects the fee, for an exemption.

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On the other hand, the court found that the application of the broadcasting fee to company vehicles was compatible with the Constitution. It held that the opportunity to receive broadcasts was beneficial for business premise owners because it enabled them to obtain information for their company and to keep their employees and customers informed and entertained. The same applied in relation to the reception of broadcasts in company vehicles. As far as rental cars were concerned (a large car rental company had filed a constitutional complaint because it owned a large fleet of vehicles), the fee was justified because higher rental prices could be charged for suitably equipped vehicles. The owners of business premises and company cars should pay for the advantages they gained from the ability to receive broadcasts. Since the practical arrangements governing payment of the broadcasting fee were therefore identical for business premises and vehicles, they were compatible with the Constitution.

Urteil des Bundesverfassungsgerichts vom 18. Juli 2018 (1 BvR 1675/16)

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2018/07/rs20180718_1bvr167516.html

Judgment of the Federal Constitutional Court, 18 July 2018 (1 BvR 1675/16)

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