[LT] The Supreme Administrative Court confirms journalists' right to obtain recordings of Government meetings

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The story began in Autumn 2018 when Lietuvos Vyriausybė (the Government of the Republic of Lithuania) decided to charge journalists for the provision of data and information from official state registers. Prior to that date, all the data was freely accessible without payment. Such a decision provoked enormous discontent amongst both journalists and the public.

Faced with public pressure, the government was forced to convene a meeting on 3 October 2018 and discuss this matter once again. Information that the meeting had been very heated and that the prime minister had expressed himself in a very rude and discourteous way towards journalists was leaked to the public. In reaction to this information, the next day the journalists requested that the recording of the government meeting be presented. Not surprisingly, the government refused to submit the recording, basing its decision on the fact that meetings are not public, that recordings are used only for the purpose of preparing the minutes of meetings and that the provision of recordings is not a public function of Vyriausybės kanceliarija (the Government Office). After a couple of days of pressure from various media outlets, the government announced that the recording had been deleted. The journalists were not convinced by the arguments and appealed the refusal to provide the recording, requesting that the court order the recording to be restored.

After almost two years of litigation, on 23 July 2020, the Supreme Administrative Court of Lithuania (SACL) concluded that the government had breached the Law on the Provision of Information to the Public by refusing to submit the recordings to journalists.

The SACL recounted its previous case law on the Media Law and freedom of expression. The court noted that the Media Law obliges journalists to provide correct, accurate and impartial information; to critically evaluate their sources of information; to carefully check the facts; and to rely on several sources. It is obvious that the work of a journalist is directly related to one of the fundamental rights of every person – the right to have beliefs and express them (freedom of information). A journalist, depending on his or her status, has the right to receive information promptly, therefore Article 42(1) of the Media Law establishes the

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obligation of state and municipal institutions to provide information which is necessary for the performance of the functions of producers and disseminators of public information. The state is constitutionally obliged not only to refrain from impeding the free dissemination of information in society but also to take positive action so that its citizens are provided with the information they need to know to be able to participate in taking decisions relating to the conduct of public affairs, as well as decisions relating to the exercise of their rights and freedoms.

Considering the above, the SACL held that the government's deliberations in a meeting are an organisational form of the government's activities; therefore, the journalists, in the course of their professional activities, had a legitimate reason to apply to the government for information about the government's meeting and the decision taken in it (and the reasons for it), and that such a request was not excessive. The court further pronounced that the applicable law does not provide for any restrictions to the provision of information in the case at hand and that the government had failed to demonstrate that it had a legitimate reason to refuse the provision of information.

However, since the recording had been deleted, the SACL was convinced that the restoration of the recording was not technically possible, therefore it did not order the government to restore the recording.

Even though the ruling of the SCAL was only a formal victory for journalists, this high-profile case forced the government to change the applicable law. From 1 January 2019, all government meetings are broadcast via the Internet and their recordings are made publicly available.

Nuasmeninta nutartis byloje, eA-1639-520-2020.

http://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=c7fe5868-2946-4c7c-aa2e-71a3bde7832b

Depersonalised case ruling, eA-1639-520-2020.

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