[LT] Constitutional Court confirms that funding the national broadcaster through a fixed percentage from the state budget is in line with the Constitution

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The case was initiated by Lietuvos Vyriausybė (the Government of the Republic of Lithuania) when it applied to Konstitucinis Teismas (the Constitutional Court of the Republic of Lithuania - the Court) requesting a constitutional investigation into whether certain provisions of the laws regulating the financing of certain programmes, funds or institutions are in conformity with the Constitution of the Republic of Lithuanian (the Constitution).

Among other laws, the Law on the National Radio and Television *(Lietuvos Respublikos Lietuvos nacionalinio radijo ir televizijos įstatymas*) was questioned in this case. The law lays down that the amount of funds allocated to the national public broadcaster VšĮ Lietuvos nacionalinis radijas ir televizija (LRT) from the state budget each year shall be fixed at 1.5% of personal income tax revenues and 1.3% of the excise revenues actually received in the previous year. The law also prohibits the national public broadcaster from receiving funds for advertising and does not provide any other significant sources of financing.

The government questioned this principle on the basis that it limited its constitutional right to prepare a draft state budget and the parliament’s right to approve the state budget, as it already provides for the amounts to be allocated to LRT and does not allow the government and the parliament any freedom to adjust the budget. The government argued that the amount of funds to be allocated to the national public broadcaster should be negotiated each year together with the state budget.

The Court issued a ruling on 3 November 2020 which dismissed all of the government's doubts in respect of the funding of the national public broadcaster.

In the ruling, the Court recounted its previous constitutional doctrine, where the Court states that LRT is entrusted with the national public broadcaster's mission to ensure the public interest: to disseminate information about Lithuania and the world, and to prepare and publish programmes fostering constitutional, shared human and national cultural values, based on the principles of objectivity; democracy; impartiality; respect for human dignity and rights; freedom of expression and creativity; pluralism of opinion; morality; and ethics. This legal

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regulation established in the Constitution presupposes the independence of LRT, as the national public broadcaster, from state institutions, officials and other persons. Aspects of the independence of the national public broadcaster – its independence in terms of freedom of information (editorial independence) and its institutional independence – are inextricably linked. The national public broadcaster was not established to occupy the market. LRT's mission is different from that of a market participant: a public service broadcaster, without representing any interest group, must provide public radio and television broadcasting services to the general public and not to its founder, the state. Thus, to carry out its constitutional mission, the national public broadcaster must be financed properly to ensure its independence.

Taking into account such a constitutional doctrine, the Court in this case found that the legislator, having established a financing model according to which the main source of financing is the state budget (and at the same time prohibiting advertising), must ensure that LRT is not subject to political pressure when the state budget is being planned and approved. Otherwise, if the government had a wide measure of discretion in deciding on the amount of the state budget to be allocated to LRT each year when preparing a draft state budget, the institutional and editorial independence of LRT and the public interest enshrined in the Constitution would be compromised.

Therefore, the Court concluded that the funding of the national public broadcaster, whereby certain funding is already set out in the law, does not infringe the Constitution.

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https://www.lrkt.lt/lt/teismo-aktai/paieska/135/ta2254/content

Ruling of the Constitutional Court of Lithuania in Case no. eA-1639-520/2020, dated 3 November 2020

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