[FR] Abolition of TV licence fee conditionally approved by Constitutional Council

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Amélie Blocman
Légipresse

Under the *Loi de finances rectificative pour 2022* (Amended Finance Law for 2022, law no. 2022-1157 of 16 August 2022), the television licence fee that funds French public broadcasters (France Télévisions, Arte-France, Radio France, RFO, RFI) and the *Institut national de l'audiovisuel* (National Audiovisual Institute) was abolished. The EUR 138 fee (EUR 88 in the French overseas territories) was paid by every taxable household and brought in EUR 3.7 billion to the state each year. It will be replaced by a percentage of VAT revenue until the end of 2024. In particular, Article 6 of the law revokes Article 1605 of the *Code général des impôts* (General Tax Code) and amends Article 46 *Loi de finances* (Finance Law) of 30 December 2005.

Asked to examine the law by opposition MPs, the *Conseil constitutionnel* (Constitutional Council) ruled that the provisions conformed with the Constitution, but only under conditions that the legislator must take into account when taking future decisions.

In their appeal, the MPs claimed, firstly, that the abolition of the licence fee ignored a fundamental principle recognised in national law and enshrined in the Law of 31 May 1933 fixing the general budget for the 1933 financial year, which stated that public broadcasters should be funded by means of a licence fee. However, the Constitutional Council decided that, since Article 109 of the Law of 31 May 1933 – under which the licence fee had been created – had neither the purpose nor the effect of establishing such a principle, the complaint that it had been ignored should be rejected.

The Constitutional Council explained that radio listeners and television viewers, who were among the main beneficiaries of the freedom proclaimed in Article 11 of the Declaration of the Rights of Man and of the Citizen, should be able to exercise their freedom of choice without private interests or the state imposing their own decisions. It was true that, by abolishing the TV licence fee with effect from 1 January 2022, the disputed provisions were likely to jeopardise the financing and, therefore, the independence of the public broadcasters, which was essential for the freedom of communication. However, the provisions stated, firstly, that the licence fee income for 2022 would be replaced by an equivalent amount of VAT revenue. Secondly, from 1 January 2023 until 31 December 2024, public

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broadcasters would be funded from a percentage of VAT revenue to be fixed each year under the annual finance law.

The legislator would therefore be responsible for fixing the amount of income, firstly in the 2023 and 2024 finance laws and, secondly, for the period after 31 December 2024, to enable the public broadcasters to fulfil their public service remit. Subject to this condition, the new method of funding public broadcasting was therefore ruled to be in conformity with the French Constitution.

Loi n° 2022-1157 du 16 août 2022 de finances rectificative pour 2022, JO du 17 août 2022

https://www.legifrance.gouv.fr/download/pdf?id=S6W9hplEgJTWvy0M5B4OGe-nam6aCtsgM2LdqywZyGE=

Amended Finance Law for 2022, law no. 2022-1157 of 16 August 2022, Official Journal of 17 August 2022

Décision n° 2022-842 DC du 12 août 2022, JO du 17 août 2022

https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000046186787

Decision no. 2022-842 DC of 12 August 2022, Official Journal of 17 August 2022

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