[ES] Socialist Party Challenges Constitutionality of Latest Amendment of Law on Digital TV

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It seemed that the controversy as regards the Spanish law on digital television had come to an end after the amendments introduced by a Real Decreto-Ley passed last September by the Government in order to comply with the demands of the European Commission (see IRIS 1997-9: 9). But the PSOE, the Spanish Socialist Party, which had already raised the issue of the constitutionality both of the first Real Decreto-Ley on the matter passed in January 1997 (see IRIS 1997-2: 10) and of the subsequent Law of May 1997 (see IRIS 1997-5: 12), as well as of the Law on the broadcasting of events of major public significance of June 1997 (see IRIS 1997-8: 12), has now also challenged the constitutionality of the Real Decreto-Ley of September 1997. This means that all the legal provisions passed last year in Spain in relation to the media sector are now challenged before the Constitutional Court. In this last case, the Socialist Party has alleged that the Real Decreto-Ley is against Articles 20 and 38 of the Spanish Constitution which protect freedom of speech and freedom of enterprise respectively.

The Real Decreto-Ley of September 1997 changed the Law of May 1997, in the sense that simulcrypt decoders are no longer be prohibited. But the Real Decreto-Ley also stipulates that decoder systems for digital TV are to be directly and automatically open, and that in case where the owner of a proprietary system does not reach an agreement with the other digital TV operators, the Comisión del Mercado de Telecomunicaciones (CMT - Telecommunications Market Commission) is entitled to establish the legal, technical or economic conditions to ensure that the decoder systems are open to other operators. According to the Socialist Party, this option gives too much power to the CMT, whose members are directly appointed by the Government. The PSOE argues that the system goes beyond both the requirements of the EC and the limits of the Spanish Constitution, with the only goal of opposing the development of PRISA's digital TV platform and Canal Satélite Digital, which uses a proprietary, simulcrypt decoder.

The Government denied this accusation and it affirmed that the present system has been accepted by the European Commission. Furthermore, the Government stated that these rules bring benefits to the consumers, as they make it possible for them to receive all digital platforms with one single decoder and it accused the Socialist Party of acting in behalf of the PRISA Group and against the interest of consumers.

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