[GR] New board in the National Council of Radio and Television but implementation of Article 30 AVMS Directive still pending

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On 28 September 2023 the College of Presidents of the parliament decided on the appointment of new members to the board of the ESR (*Ethniko Symvoulio Radiotileorasis*, the Greek independent authority responsible for electronic media). Mrs Euterpe Koutzamani, former prosecutor of the Supreme Court and former vice president of the ESR, was appointed to the role of president, whilst Giannis Politis, journalist and political analyst, was appointed to that of vice president (both of these roles being full-time positions). A futher six individuals were appointed as new members (four of them being retired journalists); they join one other member who had been nominated in 2021 for a six-year term.

This decision of the College of Presidents caused a backlash, as political parties from the opposition considered that the increased three-fifths majority had not been achieved (16 out of 27 members), although the composition of this high parliamentary commission was changed a few days before its session by the addition of one further member. Criticisms were also raised over the lack of consultation and consent regarding the individuals proposed as members, as their names had only been announced to the members of the College of Presidents two days before its session. In fact, none of the existing Rules of Procedure of the parliament or laws specific to the ESR contain any disposition on this specific matter. Article 30 paragraph 5 of the AVMS Directive states that the procedures for the appointment of the heads of national regulatory authorities or the members of the collegiate body fulfilling that function "shall be transparent, non-discriminatory and guarantee the requisite degree of independence".

More generally, Greece has not yet fully implemented Article 30 paragraph 1 of the AVMS Directive which prescribes that regulatory authorities are to be "legally distinct from the government and functionally independent of their respective governments …". Paragraph 4 of the same Article 30, which requires member states to ensure that national regulatory authorities shall "have adequate financial and human resources and enforcement powers to carry out their functions effectively" and are "provided with their own annual budgets" is also still pending implementation. The ESR belongs to the legal entity of the Greek State; its budget is attached to that of a governmental General Secretariat and it is understaffed.

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Furthermore, the ESR is among the few European authorities having no regulatory powers; this is why it cannot fully exercise its constitutional responsibility for the licensing of radio, regional television stations and part of the nationwide television terrestrial stations. Its competence in the publication of tenders, which leads to the licensing of services, is subject to the issuance of ministerial decisions.

In general, detailed rules necessary for the application of existing laws are also fixed by ministerial decisions (the ESR having a consultative role). The regulatory authority's role is limited to sanctioning powers.

Απόφαση ΠΡΟΕΔΡΙΑΣ ΤΗΣ ΚΥΒΕΡΝΗΣΗΣ Αριθμ. 280

https://www.esr.gr/wp-content/uploads/FEK_2023_Tefxos_YODD_1037_28092023.pdf

Decision of the presidency of the government No. 280

ΝΟΜΙΚΗ ΑΝΑΛΥΣΗ VOULIWATCH, ΕΚΛΟΓΗ ΜΕΛΩΝ ΑΔΑΕ ΚΑΙ ΕΣΡ, Παρέμβαση στην ανεξαρτησία των ανεξάρτητων αρχών;

https://vouliwatch.gr/resources/file/2023/10/16/1532042d-e347-42a4-9208-7b26b4b8fff6.pdf

LEGAL ANALYSIS VOULIWATCH: ELECTION OF THE MEMBERS OF ADAE AND ESR, Interference with the independence of independent authorities?

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