

## **TV Licensing in Greece: Concealed Censorship or Appropriate Solution?**

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For 27 consecutive years private TV channels have been operating in Greece with temporary licenses provided by the Greek Parliament in 1989 and extended since then either by law or by ministerial decisions. In 2015 the SYRIZA government decided to give a definite solution to this matter and to regulate the telecoms sector appropriately. In autumn 2015 the Greek parliament approved a new media bill providing a license procedure through an international tender, conducted by the National Council for Radio and Television (NCRTV).

Despite the definition in the Greek Constitution (article 15) of the NCRTV as the independent administrative authority exclusively charged with supervising and regulating the radio/television market, it was the governmental majority which decided on the number of the licenses that would be sold through auctioning and the terms and conditions of the auction. After an unsuccessful attempt to convene the NCRTV it was stipulated through an amendment that the parliamentary majority would decide on the number of the licenses and that the Minister of the State would be the only person in charge to organise the auction and to proclaim the competition.

In 2016 the governmental majority limited the number of distributed licenses to four and this decision raised questions about the safeguarding of media pluralism. When asked why the licenses would be only four given that there are eight national private TV channels, the Minister of the State, Nikos Pappas, answered that this number would ensure TV channels of a better definition, that it would allow only sustainable TV channels to continue and that it would constitute a blow against interweaving.

The legislative changes were not only opposed on a national level, but also attracted criticism from the European institutions. The European Commissioner for Digital Economy and Society, Günther Oettinger, sent a Letter of Formal Notice to Greece expressing concerns about the latest legislative changes in the telecoms sector. The Commissioner expressed his readiness to intervene in case it should become apparent that the TV licensing procedure violated EU legislation on media pluralism, press freedoms and the independence of the national telecoms regulator.

In July 2016, the Association of Commercial Television in Europe (ACT) criticised the planned formation of a state run online platform on which commercial broadcasters will have to register the entirety of their advertising time and related asking prices and where advertisers will bid and buy advertising time without broadcasters being able to negotiate the transaction and with the addition of a 10% tax to all transactions. According to the ACT, this regulation violates EU law with regard to the freedom of establishment, the freedom to provide services, the free movement of capital, the freedom to conduct a business (Article 16 of the Charter of Fundamental Rights of the EU), equitable treatment of service providers and state aid provisions.

After three days of continuous and exhaustive bidding *in camera*, the winners of the four licenses were determined and the Greek state made a profit of 246 million euro. The other four nationwide private TV channels which did not manage to be granted a license are supposed to operate for ninety more days and then their signal will be disrupted adding more than 2,000 people to the already vast army of unemployed (ca.1,115,000). At the same time all nationwide private TV channels have brought a case against the Greek government before the Hellenic Council of the State asking from the Supreme Administrative Court in Greece to recognise the unconstitutionality of the law regarding the national TV licensing process. The

Supreme Administrative Court was supposed to convene last Friday, 30 September, but the consultation was cancelled by its president because of the prevailing atmosphere that supposedly did not allow the judges to perform their duties properly.

The case of TV licensing in Greece has raised many issues, one of them being whether the recent legislative changes constitute an attempt to provide a solution to a problem that has been dragging on for 27 years or whether it is an example of abuse of authority and censorship. Furthermore, the disregard of the Greek National Council on Radio and Television and the sudden cancellation of the consultation of the Hellenic Council of the State raise doubts about the operational and personal independence of the allegedly independent administrative authorities and the judicial authorities in Greece. While it is still uncertain whether the whole amount of money raised by the auction is actually going to the Treasury; the judgment of the Supreme Administrative Court on the constitutionality of the TV licensing law is eagerly awaited because of the consequences it may have in case the Court recognises the unconstitutionality of the new regulations.

What is certain is that the TV licensing issue in Greece has not yet been concluded with the auction some weeks ago. The issue is still pending, and as long as the court proceedings continue to be postponed, the feeling of insecurity and the dispute about the transparency and the legality of the procedures are lingering on.