



KLUBRÁDIÓ

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Press Release

Taking into consideration the insufficient answers provided by the Hungarian Government in connection with Klubrádió's frequency extension in 2020, the Commission of the European Union turned to the European Court of Justice within the frameworks of an infringement procedure because the Commission is of the opinion, just as Klubrádió is, that the Media Council rejected the extension of Klubrádió's frequency user licence in a non-transparent decision making procedure in a discriminative way while disregarding effective EU and national regulations.

In the meantime, the Media Council is continuously making efforts to silence Klubrádió on the frequency taken unlawfully away from it. In order to achieve this, it attempts to play over media service provision rights on the Budapest 92.9 MHz frequency to the ATV group. The latter one has been broadcasting its programmes for the last 16 months in complicity with the Media Council, fully aware of the continuous infringements of the provisions of the currently in force media law. The Media Council finds that now is the right time to take away Klubrádió's frequency for good.

After the 2021 unsuccessful application procedure that ended once again with the unfounded disqualification of Klubrádió from the application procedure, the authority carried out a new application procedure in 2022, in which it proclaimed the Association for Community Radio Broadcasting (Közösségi Rádiózásért Egyesület) belonging to the ATV group the winner with a score of 48:47. The recital states that the decisive factor was that the winner offered fewer programme repeats (22% vs. 30%), and this way it got one more of the so called subjective points during the evaluation of the programme plans than Klubrádió.

Already when drafting the call for applications, the Media Council did it in such a way as to put its preferred applicant into a disproportionately better position; for instance, with hardly a year of experience in media service provision, it received the same number of points for experience in media service provision as Klubrádió with more than twenty years on the air. The call for applications, as such, was loaded with moral problems, and also the decision of the Media Council on the allocation of frequencies infringes several statutes of the media law too.

Therefore Klubrádió brought an action against the decision of the authority that it deems unlawful basically in three aspects.

1. The call for applications did not include any evaluation criteria for assessing the rate of programme repeats, even though the media law provides that evaluation of the applications must be done solely and exclusively on the basis of the criteria identified in the call for applications, and no additional criteria can be set at a later date to the originally published ones that were unknown to the applicants at the time of filing their applications.
2. In the programme of the applicant announced to be the winner, there is a significant amount of repetition of audio programmes that had been on air earlier, meaning before the radio broadcasting, as part of the ATV television programmes, and these were not considered by the authority as repeats, but rather as original new radio programmes, the same as Klubrádió's programmes identified as new, that were really aired on Klubrádió for the very first time. This is how Klubrádió lost when assessing the rate of new and repeated programmes in such a way that it actually provides significantly more new and significantly less repeated programmes than the applicant announced to be the winner.
3. In addition, the winning applicant severely infringed the rules of clean application procedures by continuously infringing the statutes of the media law when for more than a year it has been temporarily broadcasting its programmes. The now winning media programmes can be heard on the Budapest 92.9 MHz frequency continuously for more than a year now, even though the media law says clearly that temporary media service provision licence can be granted to a single service provider only once and for a maximum of six months. The winning applicant gets around this rule in complicity with the Media Council by broadcasting the same radio programmes *pro forma* under different organisational names every six months. The actual owners of such organisations always come from the same set of people, nevertheless, even this way they do not manage to comply with the rule that temporary radio services must not be on air for more than six months, and the Media Council simply turns blind eyes to this. This is how it could happen that at the moment a company called Németh Média Kft. broadcasts the winning radio programmes, even though it was a different organisation, the Association for Community Radio Broadcasting (Közösségi Rádiózásért Egyesület) that filed the application (and won). Another statutory infringement of the winning applicant in complicity with the Media Council is that at least a fifteen day break, a so called air silence must be observed between the six month temporary licences of two different media service providers. However, the programme by Spirit FM can be heard continuously since 3 May 2021 at the 92.9 MHz frequency, meaning that illegal activities of pirate radio broadcasting took place twice in the fifteen day breaks, naturally with no consequences whatsoever. Just for a second let us remember that in September, 2020, the Media Council rejected the extension of Klubrádió's service licence because of late data filing twice, both hit with a thirty thousand HUF fine, even though it has turned blind eyes to much bigger "infringements" of other radios.

It seems that there is a single rule the Media Council finds worthy of compliance: no analogue terrestrial media service licence is to be granted to Klubrádió by any means. However, with Klubrádió bringing action, the Court gets another opportunity to form an opinion on the issue of whether written statutory law bears any significance in Hungary at all, and if the legal provisions in force apply to those in power and their allies or not.

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