



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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SECOND SECTION

Application no. 31204/22
KLUBRÁDIÓ SZOLGÁLTATÓ ZRT
against Hungary
lodged on 14 June 2022
communicated on 17 August 2026

SUBJECT MATTER OF THE CASE

The application concerns the non-renewal of the applicant company's licence to use a radio frequency.

On 8 November 2019, before the expiry of its broadcasting licence to use a specific radio frequency, the applicant requested the Media Council of the National Media and Infocommunications Authority (NMHH) to renew its licence for a further seven years, without tendering, which is a special opportunity provided to service providers already using a given radio frequency. The authority rejected the request on the basis of section 48(7) a) of Act no. CLXXXV of 2010 on Media Services and Mass Communication (the "Media Act") which precludes the renewal of the licence if the provisions of the same Act have been repeatedly infringed. In the applicant's case, such a repeated infringement had been established by the authority in 2017 as the applicant had twice failed to comply with its obligation to communicate monthly data concerning broadcasting quotas.

The applicant sought judicial review of the decision. It challenged the application of section 48(7) a) of the Media Act and argued that it had been discriminated against in comparison with other service providers who should have been subject to the same exclusion rule but whose renewal requests had nevertheless been granted. The Budapest High Court dismissed the action. It found that the existence of a ground for non-renewal was a question of fact and that the applicant was precluded by law from being granted this special

renewal. As regards the alleged discrimination, the High Court noted that, according to publicly available information, the factual basis and timing – thus the legal context – of the authority’s decisions concerning other companies had been different. The applicant’s petition to the *Kúria* and its complaint to the Constitutional Court were to no avail.

On 26 February 2026, in its judgment in case no. C-92/23, the CJEU found that section 48(7) of the Media Act was incompatible with the requirement flowing from Article 4(2) of the Competition Directive, the second subparagraph of Article 5(2) and Article 7(3) of the Authorisation Directive and Article 9(1) of the Framework Directive, according to which the renewal of rights to use radio frequencies must be based on proportionate criteria. The CJEU found that the impugned section of the Media Act required the Media Council to refuse, automatically and in all cases, to renew the right to provide media services where the provider concerned has committed a repeated infringement, without allowing the Media Council any discretion in order to determine, when examining applications for renewal of that right, whether a balance has been struck between the seriousness of the infringement at issue and the seriousness of the consequences of the refusal to renew for that provider’s access to radio frequencies.

The applicant complains under Article 10 of the Convention that the interference with its freedom of expression was not justified on any of the grounds set out in Article 10 § 2, and was unnecessary and disproportionate.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant company’s freedom of expression, in particular its right to receive and impart information and ideas, within the meaning of Article 10 § 1 of the Convention, by the refusal to renew the applicant’s licence to use a radio frequency (see *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 136, ECHR 2012; and *Objective Television and Radio Broadcasting Company and Others v. Azerbaijan*, no. 257/12, § 70, 18 February 2025)?

2. If so, was that interference prescribed by law and necessary in terms of Article 10 § 2 in pursuit of a legitimate aim (*NIT S.R.L. v. the Republic of Moldova* [GC], no. 28470/12, §§ 155-61, 177, 184-86, 194-96 and 218, 5 April 2022; and *Demuth v. Switzerland*, no. 38743/97, §§ 33, 35, 40 and 43, ECHR 2002-IX)?