

# Legal Bulletin

## **Constitutional Tribunal: new rules on CBA are incompatible with Constitution**

The definition of corruption included in the law on CBA, the Central Anti-Corruption Bureau as well as entries allowing for the collection of data that are not necessary linked to a current investigation, the search of a controlled person's home and a directive by which the CBA has an unlimited access to database are incompatible with the Constitution and European Conventions on corruption, the Constitutional Tribunal has ruled.

“The definition included in the law on CBA gives the impression that it was enlarged during the legislative work,” believes rapporteur Professor Marian Grzybowski. The Constitutional Tribunal ruled the law unconstitutional for two reasons: firstly because it is directed against the freedom of economic activities allowing CBA to examine operations of the private sector in the part not related to the management of public funds and because it is incompatible with the principles of “the definite character rule” and at times, illogical.

The tribunal also revoked part of the article 22 on CBA personal data collecting and processing. The personal data collecting and processing has to be directly related to current proceedings. The so called „sensitive data” cannot be collected as „potentially useful,” the tribunal stressed recognizing the article as incompatible with the Constitution, the principle of privacy protecting, the European Convention on the Protection of Human Rights and Fundamental Freedoms as well as the Convention No. 108 of the Council of Europe on automatic processing of personal data. Judge Grzybowski underlined that CBA has the right to collect the so called sensitive data (i.e. on health, political views, sexual preferences) but only if they are directly related to current proceedings. However, one can hardly imagine that religious or philosophical views may be recognised as data so, in line with regulations, information on them should be destroyed by a commission.

## **Sejm adopts Senate's amendment to MEPs wages**

The Sejm has adopted an amendment of the Senate (the Upper Chamber) to an amended law on wages of Polish members of the European Parliament MEPs and some other laws. The amendment covers all deputies and senator with accident insurance. In line with the amendment present MEPs who were also MEPs during the previous European Parliament term of office will be entitled to choose whether he want to be paid in line with Polish or EP laws.

## **Amendment to law on guaranteed medical services**

The Sejm has adopted a Senate's amendment under which the health minister will specify, in a directive, guaranteed medical services or, medial services partly or totally sponsored from public funds. The MPs adopted all 20 Senate amendments to the law. One of the amendments broadens the make-up of the Consultative Council of the Agency for Medical Technologies Protection by a representative of the Main Nurses and Midwives Council. The amendment specifies criteria to be met to receive guaranteed medical services. The list of guaranteed medical services will be available to patients.

The law on CBA has to be amended in 12 months to include recommendations of the Constitutional Tribunal, government spokesman Paweł Graś has said.

### **Sejm revises media laws**

Annual budget funding for public media will be unrestricted, the Sejm ruled last Wednesday week accepting a Senate amendment to media laws.

In parliament's version of the law budget funding for public TV and radio could not be lower than PLN 900 million.

PM Donald Tusk and Finance Minister Jacek Rostowski have said that due to the crisis next year's media funding will fall below PLN 900 million.

The Sejm rejected the Senate's suggestions to allow commercials in public media but accepted a commercial ban on public-funded programmes aired by private broadcasters.

The Sejm also accepted an amendment defining support of Christian values as a public media task warranting budget funding.

The law prepared jointly by the Civic Platform PO, the Polish People's Party PSL and the Democratic Left Alliance SLD eliminates the compulsory radio and TV licence fees as of January 1, 2010 in exchange for a funding from the state in the amount of up to PLN 900 mln. The new system of financing will have to be approved by the European Commission.

### **Sejm: All parliamentary caucuses for monitoring prisons cells**

All parliamentary caucuses supported a draft amendment to the executive proceedings code that introduces optional monitoring of prisoners' cells in order to regulate detention centres' monitoring issues and prevent prisoners' suicides.

Used for the purpose will be equipment registering picture and sound including industrial TV cameras. Monitoring will not cover confessions and talks with attorneys.

Monitoring equipment will be placed in cells and sanitary facilities except for private parts of prisoners' bodies.

### **Sejm adopts amendments to law on National Broadcasting Council**

The Sejm has adopted a Senate amendment to the law on the National Broadcasting Council by which licenses will be granted to companies formed on the basis of the commercial company code. Licences will be granted not only to individual and legal persons but also to general partnership, limited partnership and partnership companies.

### **Law on Crisis management amended**

County and commune self-governments will be entitled to form crisis management centres depending on their needs and on the basis of their units; Crisis management programmes will be updated no less than every two years, under an amendment to the law on crisis management passed by the Sejm.