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Subject : Rule of law, Margin of appreciation, Powers, Equality, Rights in respect of the audiovisual media and other means of mass communication, media, editor, criminal responsibility, effect / media, journalist, criminal responsibility, regime.

Headnotes:

Because of the special characteristics of publication activities, the legislature has introduced different rules on general criminal liability for the responsible editors in chief of periodicals as opposed to those valid for journalists who are authors of articles, news or caricatures. This falls within the discretionary power of the legislature. Moreover, there is no doubt that the perpetrators of actions (i.e. the authors of the articles or of the news or caricaturists) have a different legal status from the editors in chief of periodicals.

Summary:

The Ankara 2nd Court of First Instance brought an action in the Constitutional Court alleging that the third sentence of Article 16.1 (amended by the Law 2950) of the Law on Press, 5680, was contrary to the Constitution.

Article 16.1 of the Law on Press stipulates that "the liability for offences committed by way of periodicals lies with the author of the articles or of the news or caricaturists as well as with the responsible editors in chief of the periodical. However, the penalties requiring imprisonment to be applied to the responsible editors in chief of the periodicals shall be changed to a fine, without considering the duration of the imprisonment. The lowest limit of the amounts mentioned in Article 4.1 of the Law on the Execution of Penalties (647) shall be taken into account in the calculation of fines. The sanction of putting under surveillance shall not be imposed against the responsible editors in chief." The Applicant Court alleged that the third sentence of the Article confers privilege upon the responsible editors in chief of the periodicals.

The principle of equality before the law does not mean that everybody shall be bound by the same rules. It is a natural consequence of the equality principle that individuals having the same legal status shall be bound by the same rules, while others having different legal status shall be bound by different rules. On the other hand, in a State governed by the rule of law, the lawmaker may determine which actions shall be deemed as crimes and which sanctions shall be applied to them

provided that it is in conformity with the general principles of the Constitution and with those of the criminal law.

The liability of the editors in chief of periodicals as provided in the contentious article is a special and exceptional one stemming from Article 16 of the Law on Press. Since the authors of the articles, the news or the caricaturists do not have the same status, the legislature may enact different rules for those groups of people as far as criminal liability is concerned.

The provision in question is therefore not contrary to the principles of equality and of the rule of law. The demand was unanimously rejected.