

MEDIA LAW IN HUNGARY

SECOND EDITION

JUDIT BAYER



Wolters Kluwer
Law & Business

Media Law in Hungary

Second Edition

Judit Bayer

This book was originally published as a monograph in the International
Encyclopaedia of Laws/Media Law.

General Editors: Roger Blanpain, Frank Hendrickx

Volume Editor: Peggy Valcke

Associate Volume Editor: Eva Lievens



Wolters Kluwer
Law & Business

Published by:

Kluwer Law International
PO Box 316
2400 AH Alphen aan den Rijn
The Netherlands
Website: www.kluwerlaw.com

Sold and distributed in North, Central and South America by:

Aspen Publishers, Inc.
7201 McKinney Circle
Frederick, MD 21704
United States of America
Email: customer.service@aspenpublishers.com

Sold and distributed in all other countries by:

Turpin Distribution Services Ltd.
Stratton Business Park
Pegasus Drive, Biggleswade
Bedfordshire SG18 8TQ
United Kingdom
Email: kluwerlaw@turpin-distribution.com

DISCLAIMER: The material in this volume is in the nature of general comment only. It is not offered as advice on any particular matter and should not be taken as such. The editor and the contributing authors expressly disclaim all liability to any person with regard to anything done or omitted to be done, and with respect to the consequences of anything done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this volume. No reader should act or refrain from acting on the basis of any matter contained in this volume without first obtaining professional advice regarding the particular facts and circumstances at issue. Any and all opinions expressed herein are those of the particular author and are not necessarily those of the editor or publisher of this volume.

Printed on acid-free paper

ISBN 978-90-411-6115-4

This title is available on www.kluwerlawonline.com

© 2015, Kluwer Law International BV, The Netherlands

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without written permission from the publisher.

Permission to use this content must be obtained from the copyright owner. Please apply to: Permissions Department, Wolters Kluwer Legal, 76 Ninth Avenue, 7th Floor, New York, NY 10011-5201, USA. Email: permissions@kluwerlaw.com

Printed and Bound by CPI Group (UK) Ltd, Croydon, CR0 4YY.

Table of Contents

The Authors	3
List of Abbreviations	13
General Introduction	15
§1. GENERAL BACKGROUND OF THE COUNTRY	15
I. Political and Legal System of the Country	15
A. New Public Order from 2010	15
B. The Parliament	15
C. The Government	16
D. The President of the Republic	16
E. The Parliamentary Commissioners	16
F. Local Governments	17
G. State Audit Office	18
H. National Bank	19
I. Constitutional Court	19
J. The Judicial System	21
K. Public Prosecutor	23
II. Geography and Population	23
III. Demographic and Cultural Composition	24
IV. Social and Cultural Values	24
§2. THE MEDIA LANDSCAPE	26
I. Overview of Media Markets and Main Actors (by Ágnes Urbán)	26
A. Introduction	26
B. Advertising Revenues	27
C. Newspaper and Magazine Publishing	28
D. Television	31
E. Radio	33
F. Internet	34
G. Cross-Media Ownership	34
II. Broadcasting Infrastructure (by Ágnes Urbán)	36
III. Technological and Economic Developments on the Media Markets	38
A. The Distribution of Terrestrial Capacities	38
B. Tendering of Nationwide Commercial Television Stations	39

Table of Contents

C. Tendering of Nationwide Radio Stations	40
D. The Market of Cable and Satellite Media Providers	42
E. Local Media Markets	43
F. Digital Switchover	44
§3. SOURCES OF MEDIA LAW	46
I. Legislation of Hungary	46
A. Constitutional Provisions	46
B. Legal Rules	47
1. Media Law Reform in 2010 and 2011	47
2. Relevant Laws Governing the Field of Media	50
C. Case Law	56
1. Constitutional Court Decisions	56
D. Co-regulation	57
E. Self-Regulation, Codes of Ethics	57
II. International Sources of Law	58
A. European Directives	58
B. International Documents on Press Freedom	59
1. Conventions, Recommendations and Declarations of the Council of Europe	60
2. Recommendations and Declarations Passed with Reference to the New Hungarian Legislation	62
C. Case Law of the European Court of Human Rights	62
D. Case Law of the European Court of Justice	62
Part I. Freedom of Speech	63
Chapter 1. Relevant Constitutional Provisions Protecting Freedom of Expression and the Press	63
§1. THE NEW BASIC LAW	63
§2. DIFFERENCES FROM THE PREVIOUS CONSTITUTION	64
§3. CONDITIONS FOR PUBLIC AUTHORITIES TO RESTRICT FREEDOM OF SPEECH	66
Chapter 2. Special Duties of the State in Relation to Freedom of Expression	67
§1. CONSTITUTIONAL OBLIGATIONS	67
§2. LEGAL OBLIGATIONS	68
§3. INTERNATIONAL OBLIGATIONS	68

§4. ABOUT THE NEW MEDIA LEGISLATION	73
Chapter 3. Case Law of the Constitutional Court Affecting Freedom of Expression	76
§1. THE CONSTITUTIONAL COURT ON THE NEW LEGISLATION	76
§2. CONSTITUTIONAL CASE LAW RELATING TO HATE SPEECH	78
§3. CASE LAW OF THE CONSTITUTIONAL COURT RELATING TO THE SUPERVISION OF PUBLIC MEDIA	78
§4. CASE LAW OF THE CONSTITUTIONAL COURT ON THE TELECASTING OF PARLIAMENTARY SESSIONS: 20/2007. (III. 29) ABH	79
§5. DECISION OF THE CONSTITUTIONAL COURT ON THE RIGHT OF REPLY TO OPINIONS: 57/2001. (XII. 5) AB HATÁROZAT (LEX RÉPÁSSY)	79
§6. CASE LAW OF THE CONSTITUTIONAL COURT ON IMMUNITY OF MPS FROM DEFAMATION: 34/2004. (IX. 28) ABH	79
§7. CASE LAW OF THE CONSTITUTIONAL COURT ON DEFAMATION OF OFFICIAL PERSONS: 36/1994. (VI. 24) ABH., 13/2014. (IV. 18) ABH	79
§8. CASE LAW OF THE CONSTITUTIONAL COURT ON PLURALISM AND THE OBLIGATION TO PROVIDE BALANCED INFORMATION: 1/2007. (I. 18) ABH	80
§9. THE CONSTITUTIONAL COURT PRACTICE ON CRIMINAL PROTECTION OF NATIONAL SYMBOLS AND THE PROHIBITION OF SYMBOLS OF DICTATORSHIPS: 13/2000. (V. 12) ABH AND 14/2000. (V. 12) ABH, 4/2013. (II. 21) ABH	81
§10. THE CONSTITUTIONAL COURT ON DISSEMINATION OF FALSE RUMOURS: 18/2000. (VI. 6) ABH	82
§11. THE CONSTITUTIONAL COURT ON LIABILITY FOR ONLINE COMMENTS: 19/2014. (V. 30) ABH	82
Chapter 4. Possible Restrictive Measures That May Be Applied by Courts and Cases Where They May Apply	83
Part II. Regulation of Print Media	85
Chapter 1. The Journalists' Profession	88

Table of Contents

Chapter 2. Journalists' Rights	89
§1. ROLE OF JOURNALISTS AS WATCHDOGS OF SOCIETY	89
§2. JOURNALISTS' INDEPENDENCE	89
§3. PROTECTION OF JOURNALISTIC SOURCES	90
Chapter 3. Journalists' Liability	92
§1. GENERAL INFORMATION ON THE LIABILITY SYSTEM	92
§2. DEFAMATION AND LIBEL	93
I. Civil Defamation	93
II. Criminal Defamation	95
III. Insult as Offence	98
IV. Press Law	98
§3. HATE SPEECH	98
§4. PRIVACY	100
§5. PROTECTION OF MINORS AND ADVERTISING RESTRICTIONS IN PRESS LAW	103
Chapter 4. Right to Reply	104
Chapter 5. Access to Public Information	106
§1. PUBLIC DOCUMENTS AND MEETINGS	109
§2. COURT HEARINGS	110
§3. COURT DOCUMENTS	111
§4. MEETINGS OF THE PARLIAMENT	112
Chapter 6. Press Council	114
Part III. Regulation of Audio-Visual Media (Broadcasting)	117
Chapter 1. Public Service Broadcasting	118
§1. THE CONCEPT AND MISSION OF PUBLIC SERVICE BROADCASTING	118
I. Legal Background	119

Table of Contents

§2. THE ORGANIZATION OF PUBLIC SERVICE BROADCASTING	120
§3. THE FINANCING OF PUBLIC SERVICE BROADCASTING	123
Chapter 2. Private Broadcasting	125
§1. DIFFERENT CATEGORIES OF PRIVATE BROADCASTERS	125
I. Linear and Non-linear Services	125
II. National, Local, Regional Broadcasting	125
III. Community Broadcasting	126
§2. LICENSING REQUIREMENTS	127
I. Registration of Linear Media Service Providers	128
II. Licensing Rules	130
Chapter 3. Programme Standards	133
§1. IMPARTIALITY	133
§2. CULTURAL DIVERSITY	134
I. National Culture and Minority Culture	134
II. Protection of Hungarian Works	135
III. Other Quotas	136
IV. Subsidizing Filmmaking	136
§3. PROTECTION OF MINORS (INDECENCY AND VIOLENCE)	137
§4. HUMAN DIGNITY	139
§5. RIGHT OF REPLY	139
Chapter 4. Political Broadcasting	142
§1. RULES ON POLITICAL INDEPENDENCE OF BROADCASTERS	142
I. Incompatibility of Public Service Media Provider's Director and CEO	143
§2. FAIR REPRESENTATION IN ELECTION PERIODS	144
I. Campaign Silence (<i>Kampánycsend</i>)	146
II. Internet Self-Regulation in Election Campaigns	147
§3. NEWS AND CURRENT AFFAIRS PROGRAMMES	147
§4. POLITICAL ADVERTISING	148

Table of Contents

Chapter 5. Advertising Rules	150
§1. VARIOUS FORMS OF COMMERCIAL COMMUNICATION	150
§2. RESTRICTIONS ON CONTENT	152
§3. TIME AND FREQUENCY RESTRICTIONS	153
§4. SPONSORSHIP	154
§5. PRODUCT PLACEMENT	156
Chapter 6. Right to Information	158
§1. ACCESS TO MAJOR EVENTS	158
§2. SHORT NEWS REPORTING	159
Chapter 7. Access to Networks	161
§1. MUST-CARRY RULES	161
§2. OTHER ACCESS OBLIGATIONS FOR NETWORKS	165
I. Must-Offer	165
II. Conditional Access	167
Chapter 8. Standards and Interoperability (by Ágnes Urbán)	168
Part IV. Cross-Ownership Regulation	169
Part V. Supervision: Media Regulator	175
Chapter 1. Organization	176
§1. THE NATIONAL MEDIA AND TELECOMMUNICATION AUTHORITY	176
§2. THE MEDIA COUNCIL	177
§3. THE MEDIA AND TELECOMMUNICATION COMMISSIONER	179
Chapter 2. Tasks	181
§1. TASKS OF THE TELECOMMUNICATION AND MEDIA AUTHORITY (NMHH)	181
§2. TASKS OF THE MEDIA COUNCIL	182

Table of Contents

I. General Tasks	182
II. Market Analysis, Sector Inquiry	185
III. Fact-Finding	187
IV. Legal Disputes	188
V. Extraterritorial Jurisdiction	189
VI. Licensing	192
VII. Deciding about Balanced Information	194
Chapter 3. Sanctioning Powers	198
Selected Bibliography	205
Index	209

Media Law in Hungary

Second Edition

Judit Bayer

This book was originally published as a monograph in the International
Encyclopaedia of Laws/Media Law.

General Editors: Roger Blanpain, Frank Hendrickx

Volume Editor: Peggy Valcke

Associate Volume Editor: Eva Lievens



Wolters Kluwer

Law & Business

此为试读, 需要完整PDF请访问: www.ertongbook.com

The Authors



Judit Bayer (1974) is a full time associate professor and head of the Legal Department of King Sigismund College in Budapest. She taught and researched at the University of Wellington, New Zealand in 2006, and at Tama University, Tokyo in 2009. She had taught legal subjects at the International Business School's Oxford Brookes Ba (Hons) programme in Budapest (1998–2002). She acquired her LLM at Eötvös Loránd University (ELTE) of Budapest in 1992 and her PhD from freedom of expression in the online environment, at the Department for Constitutional Law of ELTE in 2005. She pursued constitutional free speech studies at Central European University in 2000. She carried out a research project at Open Society University in 2001–2002 on information policy issues. She led a project at the Hungarian Academy of Sciences on public service television's regulation from a perspective of European competition law. She participated in several other research projects, specializing primarily in media regulation from a freedom of expression perspective, and in freedom and regulation of new media. Judit Bayer is frequently asked to speak at conferences and expert workshops or deliver legal or policy analyses. She is author and co-author of several books and author of numerous articles, both in English and in Hungarian. She is the editor of the quarterly *Médiakutató*, a high quality media research journal. She is member of the executive board of the Society for Communication Research (MKTT) in Hungary.



Agnes Urban (1974, Budapest) is Associate Professor at the Corvinus University of Budapest (CUB). She has a master degree in Business Administration (1998), and she got her PhD degree (summa cum laude) on the Corvinus University in 2006. The title of the PhD thesis was 'The market of new media services'.

She is a lecturer at the CUB (Media Economics, Media and Audience Research). Her primary research interest are diffusion of new media, reshape the business models and change of media consumption habits. In the last years, she conducted researches about the restructuring of Hungarian

The Authors

television market, change of media consumption of teenagers and impact of new technologies on media markets. She is the author of ca. thirty Hungarian and English publications including academic papers, book chapters and conference proceedings.



Gábor Polyák is a lawyer. He is an associate professor at the University of Pécs and at the CUB. He is the leader of the Standards Media Monitor (Mérték Médiaelemző Műhely), a Non-governmental Organization (NGO) financed by the Open Society Institute, dealing with the effect analysis of the Hungarian media law. He graduated in law and media sciences at the University of Pécs. He completed an LLM degree at the University of Vienna on ITC law. His PhD was completed at the University of Pécs with the title 'Forming the Media System'. He is the chief editor of the Hungarian professional journal '*Infokommunikáció és Jog*' (Infocommunications and Law). He is the author of numerous publications and expert papers in media law, informatics law and telecommunications law.

He worked as an advisor at the National Radio and Television Authority during the presidency of László Majtényi. Fellow of the Bolyai Scholarship of Hungarian Academy of Sciences.

Table of Contents

The Authors	3
List of Abbreviations	13
General Introduction	15
§1. GENERAL BACKGROUND OF THE COUNTRY	15
I. Political and Legal System of the Country	15
A. New Public Order from 2010	15
B. The Parliament	15
C. The Government	16
D. The President of the Republic	16
E. The Parliamentary Commissioners	16
F. Local Governments	17
G. State Audit Office	18
H. National Bank	19
I. Constitutional Court	19
J. The Judicial System	21
K. Public Prosecutor	23
II. Geography and Population	23
III. Demographic and Cultural Composition	24
IV. Social and Cultural Values	24
§2. THE MEDIA LANDSCAPE	26
I. Overview of Media Markets and Main Actors (by Ágnes Urbán)	26
A. Introduction	26
B. Advertising Revenues	27
C. Newspaper and Magazine Publishing	28
D. Television	31
E. Radio	33
F. Internet	34
G. Cross-Media Ownership	34
II. Broadcasting Infrastructure (by Ágnes Urbán)	36
III. Technological and Economic Developments on the Media Markets	38
A. The Distribution of Terrestrial Capacities	38
B. Tendering of Nationwide Commercial Television Stations	39

Table of Contents

C. Tendering of Nationwide Radio Stations	40
D. The Market of Cable and Satellite Media Providers	42
E. Local Media Markets	43
F. Digital Switchover	44
§3. SOURCES OF MEDIA LAW	46
I. Legislation of Hungary	46
A. Constitutional Provisions	46
B. Legal Rules	47
1. Media Law Reform in 2010 and 2011	47
2. Relevant Laws Governing the Field of Media	50
C. Case Law	56
1. Constitutional Court Decisions	56
D. Co-regulation	57
E. Self-Regulation, Codes of Ethics	57
II. International Sources of Law	58
A. European Directives	58
B. International Documents on Press Freedom	59
1. Conventions, Recommendations and Declarations of the Council of Europe	60
2. Recommendations and Declarations Passed with Reference to the New Hungarian Legislation	62
C. Case Law of the European Court of Human Rights	62
D. Case Law of the European Court of Justice	62
Part I. Freedom of Speech	63
Chapter 1. Relevant Constitutional Provisions Protecting Freedom of Expression and the Press	63
§1. THE NEW BASIC LAW	63
§2. DIFFERENCES FROM THE PREVIOUS CONSTITUTION	64
§3. CONDITIONS FOR PUBLIC AUTHORITIES TO RESTRICT FREEDOM OF SPEECH	66
Chapter 2. Special Duties of the State in Relation to Freedom of Expression	67
§1. CONSTITUTIONAL OBLIGATIONS	67
§2. LEGAL OBLIGATIONS	68
§3. INTERNATIONAL OBLIGATIONS	68

§4. ABOUT THE NEW MEDIA LEGISLATION	73
Chapter 3. Case Law of the Constitutional Court Affecting Freedom of Expression	76
§1. THE CONSTITUTIONAL COURT ON THE NEW LEGISLATION	76
§2. CONSTITUTIONAL CASE LAW RELATING TO HATE SPEECH	78
§3. CASE LAW OF THE CONSTITUTIONAL COURT RELATING TO THE SUPERVISION OF PUBLIC MEDIA	78
§4. CASE LAW OF THE CONSTITUTIONAL COURT ON THE TELECASTING OF PARLIAMENTARY SESSIONS: 20/2007. (III. 29) ABH	79
§5. DECISION OF THE CONSTITUTIONAL COURT ON THE RIGHT OF REPLY TO OPINIONS: 57/2001. (XII. 5) AB HATÁROZAT (LEX RÉPÁSSY)	79
§6. CASE LAW OF THE CONSTITUTIONAL COURT ON IMMUNITY OF MPs FROM DEFAMATION: 34/2004. (IX. 28) ABH	79
§7. CASE LAW OF THE CONSTITUTIONAL COURT ON DEFAMATION OF OFFICIAL PERSONS: 36/1994. (VI. 24) ABH., 13/2014. (IV. 18) ABH	79
§8. CASE LAW OF THE CONSTITUTIONAL COURT ON PLURALISM AND THE OBLIGATION TO PROVIDE BALANCED INFORMATION: 1/2007. (I. 18) ABH	80
§9. THE CONSTITUTIONAL COURT PRACTICE ON CRIMINAL PROTECTION OF NATIONAL SYMBOLS AND THE PROHIBITION OF SYMBOLS OF DICTATORSHIPS: 13/2000. (V. 12) ABH AND 14/2000. (V. 12) ABH, 4/2013. (II. 21) ABH	81
§10. THE CONSTITUTIONAL COURT ON DISSEMINATION OF FALSE RUMOURS: 18/2000. (VI. 6) ABH	82
§11. THE CONSTITUTIONAL COURT ON LIABILITY FOR ONLINE COMMENTS: 19/2014. (V. 30) ABH	82
Chapter 4. Possible Restrictive Measures That May Be Applied by Courts and Cases Where They May Apply	83
Part II. Regulation of Print Media	85
Chapter 1. The Journalists' Profession	88