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By PwC Deutschland | 07 February 2024

Complaint regarding the manner of video coverage of oral hearing dismissed by Federal Constitutional Court

A constitutional complaint challenging the manner of video coverage of an oral hearing before the Munich Tax Court was not admitted by the Federal Constitutional Court. Specifically, the claim was about the use of only one camera without zoom function in a video hearing.

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The appellants felt that their right to the lawful judge under Art. 101 (1) sentence 2 of the German Basic Law (GG) had been violated. Because of the use of a camera that showed a long shot of the Judge's bench and the lack of a zoom function there was no possibility for them to check the impartiality of the judges by looking at their faces.

Decision

First, the Constitutional Court stated that the purpose of the challenged provision is to ensure that, in each individual case, no other than the judge designated for this purpose in the general standards and rules of the law and according to the courts' business distribution plans (schedule of responsibilities and case assignment plan) should act and decide.

When evaluation the chances for admission of the appeal the court found that the appellants precisely did not criticize the fact that the Munich Tax Court was not properly staffed. They rather argued that any possible reasons for exclusion on grounds of bias might not have been recognizable to them. However, this was held by the judges as not sufficient a reason for the constitutional complaint. Only the actual incorrect and improper appointment constitutes such a violation and not the lack of opportunity to review it beforehand (in a timely manner).

The Court pointed out that apart from the above mentioned, the right to a fair trial might indeed be violated by the lack of an opportunity to review impartiality. However, the plaintiffs did not raise specific complaints to that effect but rather criticized a violation of Article 101 (1) sentence 2 Basic Law.

Reference:

Federal Constitutional Court, decision of 15 January 2024 (case 1 BvR 1615/23), published on 2 February 2024.

Keywords

legislation