

RE 511,961

University Degree Waived for Working as a Journalist

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

In-person

Rapporteur:

Justice Gilmar Mendes

Decision Date:

June 17, 2009

Matter:


CASE SUMMARY

An Extraordinary Appeal (RE) in which the requirement to hold a university degree to exercise the profession of journalist, established by a decree issued during the military dictatorship, is questioned. It is argued that this rule was not granted by the 1988 Federal Constitution, implying a violation of the freedoms of the press, of expression, of information and of the exercise of the profession (article 5, items IX and XIII, and article 220, head paragraph, paragraph 1 of the 1988 Federal Constitution).

LEGAL REASONING

1. Freedoms of the press, expression and information are fundamental rights guaranteed by the 1988 Constitution (articles 5, items IX and XIII and article 220 of the 1988 Federal Constitution) and may only be restricted by law in exceptional cases in order to protect other equally important constitutional values and interests.
2. The requirement to hold a university degree in order to exercise the profession of journalism constitutes a disproportionate restriction on these freedoms, as well as on the right to pursue a profession, since it restricts access to the profession without there being any countervailing public interest to justify it. Restrictions on the exercise of a profession must be proportionate and reasonable, otherwise they amount to arbitrary restrictions.
3. Journalism is a distinct profession closely related to the proper functioning of democracy. Any form of prior control, including by means of professional rules restricting journalistic activity, could constitute prior censorship, which is prohibited by the Constitution (article 220, paragraph 2 of the 1988 Federal Constitution).

DECISION OF THE COURT

The Federal Supreme Court declared that the decree—dating from the authoritarian period—was not granted by the 1988 Federal Constitution. This decree restricted the exercise of the profession of journalist to holders of a university degree and professional registration, on the grounds that such requirements unjustifiably and disproportionately restricted the freedoms of the press, expression, information and the exercise of the profession.

ADDITIONAL NOTES



Trial's
VIDEO

part 1



Trial's
VIDEO

part 2



Trial's
VIDEO

part 3

