[CY] Supreme Court on Ban on Political Advertising

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The Supreme Court (judicial review jurisdiction) decided in September 2005 that the ban on (paid) political advertising is in breach of the law because the relevant provision in the regulations on Radio and Television Broadcasting 10/2000 was adopted beyond the scope of the law (ultra vires). The Supreme Court upheld thereby a first instance Court decision, challenged by the Cyprus Radio and Television Authority. The Supreme Court has first instance, appellate and revisional jurisdiction. It exercises revisional jurisdiction on decisions of Assize and District Courts as well as on first instance Supreme Court decisions.

The issue was first brought before the Supreme Court (first instance) by Antenna TV, in late 2001. The broadcaster appealed against heavy sanctions imposed on it by the Cyprus Radio and Television Authority for screening political advertisements during the municipal elections of 2001. In its ruling, issued in October 2002, the first instance Court said that the regulation banning political advertising had been ultra vires.

The Cyprus Radio and Television Authority appealed against the first instance decision on the ground that the ban was not in breach of the law because political advertising is of peculiar nature and it does not relate to freedom of expression.

In exercising its judicial review jurisdiction, the Supreme Court decided that the Law on Radio and Television Stations, L7(I)/1998 does not confer the power to issue regulations banning political advertising and added the following: Political advertising falls within the scope of free expression and the regulation banning this right is in breach of article 19 of the Constitution, on freedom of expression.

In the same decision, the Supreme Court deliberated on a counter-appeal by the defendant. It decided that the ban on political advertising imposed on broadcasters, but not on the print media did not constitute a violation of article 28 of the Constitution on equal protection and treatment; the different nature of the broadcast and the print media allows a distinct treatment in their exercise of the right to advertising.

It is worth noting that after the first instance decision, the Parliament promulgated in January 2003 an amendment to the law on Radio and Television Broadcasting; it eventually allowed political advertising for a period of 40 days preceding presidential elections with a ceiling of 100 minutes per candidate. No provision

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has been made for other elections.

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