[CY] Supreme Court Ruling on the Competence of the Media Regulator to Examine Ethical Issues

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The Supreme Court (Revisional Jurisdiction) decided in December 2005 that the Cyprus Radio Television Authority (the independent regulator established by law 7(I)/1998) has no power to examine cases of potential breaches of the Journalists Code of Conduct unless the Media Complaints Commission (a self regulatory body established at the initiative of media professionals) requests it.

By its verdict, the Supreme Court upheld the decision of a first instance Court on the issue, rejecting the appeal lodged by the Radio Television Authority.

The case first came up in 2001, when the Authority sanctioned Antenna TV for not ensuring respect of the dignity and personality of three persons facing charges of drug use, and for lack of sensitivity in the presentation of the relevant news item. The Authority found that Antenna TV committed a breach of regulation 21(3) of the regulations on Radio and Television Broadcasting and of paragraph 8(3) of the Journalists Code of Conduct.

The broadcaster challenged the Authority's decision on the ground that it examined the case following a request by the public and not by the Media Complaints Commission, as provided by article 3(2)(z) of the Law on Radio and Television Stations of 1998. It also argued that a provision in the regulations on Radio and Television Broadcasting 10/2000 giving that power to the Authority went beyond the scope (ultra vires) of the aforementioned article 3(2)(z) of the Law.

Both the first instance and the revisional Court adopted the broadcaster's positions and repealed the Authority's decision.

By the above decision of the Supreme Court, the powers of the Radio Television Authority are constrained by the discretionary power of the Media Complaints Commission. The setback is linked to the Journalists Code of Conduct, which was initially drafted and signed by the Union of Journalists, the Union of (Newspaper) Publishers and the Broadcasters. The latter succeeded in including in the Law a provision saying that matters relating to breaches of the Journalists Code of Conduct must be examined only after the self-regulatory body requests it.

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The Parliament - with the (implicit) acquiescence of the media professionals - incorporated the Code into the legislation, as Appendix VIII of the regulations on Radio and Television Broadcasting, giving the Radio Television Authority the power to initiate a case on its own or following a request from the public.

The Supreme Court decided that the regulation went beyond the scope of the Law, recalling the principle that no power could be given to abrogate or amend explicit provisions of the Law through regulations.

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Case 3520, Cyprus Radio Television Authority v. Antenna Ltd, 16 December 2005

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