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

**IRIS 2010-3:1/11**

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The Supreme Court, First Instance jurisdiction, decided on 18 December 2009 that the Radio Television Authority (“Authority”) has the power to make decisions on breaches of the Law in matters that are subject to the Code of Journalistic Ethics (“Code”); this is possible when the breach is connected to a provision of the Law other than those in the Code.

A broadcaster had appealed against a decision of the Authority in which the Authority imposed a fine due to the way the broadcaster dealt with an air disaster near Athens in 2005 in which 121 people died. The Authority found that there was a breach of the principles that govern news bulletins and current affairs programmes as set out in Article 26 (2) of the Law on Radio Television Stations and of the Rules 24 (1)a and 24 (2), (1) of the Regulations and in particular of the provision to avoid screening close-up shots of people bleeding or found in an extreme emotional state of despair or anger.

In its appeal the broadcaster challenged the decision on various grounds. The main position of the appellant was that the Authority had no competence to decide on the matter as it was linked to ethical issues and required a demand of the Media Complaints Commission before examining the case. This argument was based on Rule 27 (4) providing that “News programmes, tele-magazines and human reality shows are subject to the Code of Journalistic Ethics, attached in the current appendix VIII of the regulations” and Article 3 (2) (z) (ii), which stipulates that the Authority can examine cases of breaches of the Code only after a demand of the Media Complaints Commission.

In support of this position, the appellant cited a relevant decision of the Supreme Court, by which the Authority's sanctions against a broadcaster were cancelled based on the above argument (see IRIS 2006-2: 11).

The Supreme Court clarified that in the cited case the Authority's decision was totally cancelled because the sanctions imposed were for both the breach of a provision of the Code and of a rule set out in the Regulations, without them being separated. Thus, the Law does not prohibit the examination of breaches of provisions of the Law or Regulations by the Authority in matters which are subject to the Code but the breach is not connected or referred to a provision of the Code.

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Further the broadcaster submitted that the Authority's exercise of discretionary powers was wrong because it had not given any definition of the terms/principles set out in the provisions of the Law and Regulations breached. In conclusion, the Supreme Court said that answers to the issue of interpretation and justification of 'value-judgement terms' in the breached provisions could be found in the previous parts of its own decision and no further explanation was needed.

Based on the above the Supreme Court dismissed the appeal. The decision is subject to review by the Supreme Court's Second Instance jurisdiction.

*Decision of the Supreme Court, Case 572/2007, Antenna Ltd v. Radio Television Authority, 18 December 2009*

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