[CY] Radio Television Authority Can Claim its Dues in Court

IRIS 2010-3:1/12

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The Radio Television Authority (“Authority”) has the right to file a recourse to a trial court to claim its dues. This is the verdict of the Supreme Court dated 17 December 2009, which upheld the relevant decision of a trial court. Thus, the issue of the Authority seeking in court the payment of its dues by a broadcaster receives a definite answer as this is the first time the Supreme Court deliberated on the matter. As a result, the broadcaster must pay its debts to the Authority.

The Supreme Court was concerned with an appeal by Sigma Radio TV against the Authority following the decision of a trial court that ordered the broadcaster to pay its dues to the Authority, plus interest and costs. The Authority had filed a recourse to the Nicosia District Court following the refusal of the broadcaster to pay penalties for breaches of the Radio and Television Law and Regulations. The claim amounted to CP 15,300 (EUR 26,140) and the fine had been imposed by the Authority in two separate decisions. The appellant challenged the first instance court decision on several grounds including the following:

- the trial court had no jurisdiction to issue a summary decision as the requirements of the civil procedure rules were not fulfilled;

- the decision on the substance of the Authority's claim was issued without the court having examined whether the appellant had good arguments against it;

- the decision not to send the suit to the Supreme Court or the non-examination of issues concerning the constitutionality of the Radio and Television Law and Regulations was wrong and

- the court was wrong in allowing and accepting the decisions of the Authority that condemned the appellant as sufficient evidence for its decision.

In its verdict the Supreme Court noted that the evidence provided was sufficient for a verdict to be issued and that the decisions of the Authority, as administrative acts, were effective. This was based on the Law, which provides that “Fees or administrative fines or other dues are payable regardless of any objections or recourse”. Moreover, the said acts based on which the Authority raised its claims were lawful as no court decision had cancelled them and the appellant had not challenged their validity. With respect to the constitutionality of the Radio and

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Television Law and Regulations or specific provisions, such as the power of the Authority to attend to a case, decide on it and to impose fines, the Supreme Court reminded the parties that such questions have been examined in other cases and there is abundant case-law dismissing alleged unconstitutionality of the Law (see IRIS 2009-1: 9).

The decision opens the way for the Authority to impose and collect fines that some broadcasters have so far refused to pay.

(Πολιτική Έφεση Αρ. 187/2007) 17 Δεκεμβρίου, 2009

http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2009/1-200912-187-07.htm

Decision of the Supreme Court of Cyprus, Second Instance, Appeal 187/2007, Sigma Radio TV v. Radio Television Authority, of 17 December 2009

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