[CY] Recourse for Equal Treatment of Presidential Candidate Dismissed

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On 13 January 2014, the Supreme Court of Cyprus rejected the appeal of a presidential candidate against the public service broadcaster for "not granting a candidate treatment equal to the three main candidates". The rejection was reasoned with the recourse's lack of purpose and the candidate's failure to prove a vested interest. The decision followed an injunction issued before the presidential elections in February 2013.

The plaintiff was candidate to the presidential elections. She filed a recourse against a decision of the Cyprus Broadcasting Corporation (Ραδιοφωνικό Ίδρυμα Κύπρου - RIK), the public service broadcaster, for rejecting her written demand to be granted equal treatment to the three main presidential candidates i.e. the same amount of air time.

In its reply to the plaintiff's request, RIK had conceded that it would nevertheless cover her activities and offer her access to present her electoral programme. With her recourse, the candidate asked the Supreme Court to declare the broadcaster's decision as against the law, null and void.

According to the plaintiff, RIK violated Article 28 of the Cypriot Constitution on equality before the law and provisions of broadcasting law. Considering that the decision would damage her candidacy and affect the electoral result, she petitioned the Court to suspend RIK's omissions until a final verdict was issued. RIK responded that omissions can in principle not been suspended. Understanding the suspension as the granting of air time would not maintain the existing situation. It would rather change the situation drastically to the benefit of the plaintiff. Such a suspension would moreover upset and damage the broadcaster's pre-electoral programming and cause serious harm to the public interest.

In an intermediate decision issued on 30 January 2013, the Supreme Court referred to previous similar cases according to which a suspension of an action can be decided only to maintain the status quo, not to change it, in cases where the action is clearly in breach of the law. Additionally, a suspension is granted where it is clear that the implementation of a decision will cause irreparable damage to the plaintiff. Such a measure would not sustain the status quo; it would force the broadcaster to positive actions. For these reasons, the demand to

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issue an order against the broadcaster was rejected.

In its final verdict, the Supreme Court noted the principle that a case cannot be proceeded and can be erased if passed circumstances make the claim purposeless, unless damage was caused to the plaintiff. In this respect, it is up to the plaintiff to prove his or her vested interest in the case. Based on the abovementioned and given that the pre-electoral period and activities have ended, while the plaintiff failed to provide specific reference to damages, the Court decided to dismiss the recourse.

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ ΚΥΠΡΟΥ ΑΝΑΘΕΩΡΗΤΙΚΗ ΔΙΚΑΙΟΔΟΣΙΑ, ΥΠΟΘΕΣΗ ΑΡ. 128/2013, 13 Ιανουαρίου, 2014

http://www.cylaw.org/cgi-bin/open.pl?file=/apofaseis/aad/meros_4/2014/4-201401-128-13apof.htm

Supreme Court's decision of 13 January 2014 - Revisional Jurisdiction, Case 128/2013, Praxoula Antoniadou v. Radio Broadcasting Corporation

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