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“JUSTICE AND THE MEDIA”

National report

prepared by
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Justice and the Media is an important aspect of the workings of any society. The interaction of the two present a necessary background to the proper understanding of the democratic process and is a useful indicator as to the "openness" of that society. Freedom of the media is part of the overall freedom of thought and expression, both fundamental rights guaranteed by Articles 9 and 10 of the European Convention of Human Rights.

Cyprus has entrenched these fundamental freedoms in Articles 18 and 19 of its Constitution, included in Part II which is modeled on the Convention of Human Rights. Although no formal implementation has taken place of Rec (2002) 2 and Rec (2003)13, many legal provisions already in existence take cognizance of the Recommendations. Access to "official documents" as this term is defined in Rec (2002) 2, is part of the wording of Art 19(2) of the Constitution which states that the right to the freedom of speech and expression includes the freedom of opinion, the right to receive and transmit information and ideas without hindrance from any public authority. In similar fashion section 7 of the Press Law No. 145/89, safeguards the right to free access to any governmental information source and to search for and obtain from any competent authority of the Republic any information with a view to freely transmit the same by any available means of expression.

The above right is subject to such formalities, conditions, restrictions and penalties as are deemed to be necessary under the provisions of any law, in the interests of national security, constitutional order, public safety, prevention of disorder and crime, reputation and rights of others, prevention of disclosure of confidential information and for maintaining the authority and impartiality of the judiciary.

Official and public documents of at least 30 years old can be accessed also at the Public Archives under the Public Archives Law No. 208/91, unless the information sought would infringe good faith or the confidence under which the information was provided for by the government or a member of the public.

As far as access to judicial documents is concerned although general formal restrictions do not exist, O.63 rr 8-10 of the Civil Procedure Rules governs the right to inspect any judicial file or record and obtain a copy thereof as of right if the applicant is a party to a cause of matter, but otherwise if the application is made by a non-party to a suit, search, inspection and obtaining copies is only permitted upon special grounds or reasons shown and under the directions of the Administrative President of the Court or the judge dealing with the particular case.

In criminal cases, a similar provision exists under r.10 A of the Criminal Procedure Rules whereby any governmental service, authority or organ may apply for and obtain any original or certified copy of any document or exhibit in any file, provided the application is necessary for the discharge of any legal duty and upon details given. Otherwise no document or exhibit is available to anyone not having a direct interest in the matter.

Criminal trials may be attended by any member of the public including the media unless the Court rules that the proceedings should be conducted in camera for public reasons or for the preservation of the anonymity of complainants, usually minors, in sexual cases.

Article 30 of the Constitution provides that court proceedings and judgments should be pronounced in public except where the Court otherwise decides. Public safety, security reasons, public order and constitutional order afford some of the reasons for excluding the press. Journalists are free to attend any court proceedings subject to the above. The activities of journalists and the right to publish and edit newspapers etc is now governed by the Press Law No. 145/89, which consolidated the previous legislation and delineates the measures necessary for the protection of the freedom of the Press, the right to publish, circulate and sell newspapers and other publications. The Law provides for the establishment of the Press Council, which is entrusted with the responsibility of maintaining the freedom and independence of the Cyprus Press and its function. Journalists however by a fairly recent amendment in 2001 to section 44 of the Courts of Justice Law No. 14/60, which deals with contempt of Court, are nowadays precluded from taking or attempting to take any picture, or record by video or otherwise any proceedings in any Court room or in any Court premises including the court yard or during the transfer of any suspect or convict or ask any questions to such suspects or convicts while they are transferred to and from the Court premises or take any photographs or videorecordings of such persons. The amendment

was necessitated by the need to protect to the fullest possible extent, citizens and their families who are at the early stages just considered suspects for investigation or remand purposes or during trial and before conviction, but also to safeguard their dignity.

Journalists act under a self-imposed Code of Professional Ethics issued on 21.5.1997 by the Editors Union of Cyprus, the Association of Publishers and the Owners of Electronic Media, modeled on similar Codes in force in other democratic societies. It is stated therein, that journalists fully respect the presumption of innocence and are under a duty to avoid publishing anything which might insinuate anything to the contrary, while they should refrain from divulging either directly or indirectly the identify of victims of rape or other sexual offences. Similarly journalists should refrain from making known the identity of children under 16 years of age involved in any capacity in the criminal trial.

Otherwise journalists are subject to the ordinary law of the land regarding defamatory or inaccurate statements. A journalist whose newspaper report or whose interview oversteps the limit may face a defamation action with all the consequences. The publisher as well as the distributor or the media owner may also be joined as defendants. The defamation provisions are included in the Civil Wrongs Law CAP 148 and are modeled on the corresponding English libel and slander law. Over the years the compensatory levels of damages have been raised showing increasing sensitivity over an individual's dignify and reputation in his private and professional life.

Privacy is protected by Article 15 of the Constitution, which declares that every person has the right to have his private and family life respected. No encroachment on this right is acceptable unless it is permitted by law and deemed necessary and according to law and the interest of the security of the Republic, its constitutional order, public safety, morals etc. Moreover, the Processing of Personal Data (Protection of the Individual) Law No. 138(1)/2001, ensures by a multitude of provisions the protection of the individual by safeguarding the processing of personal data of an automatic or non-automatic nature which is included in any record so that the data are lawfully processed and are not collected or processed further for any unlawful purposes. Any processing of "sensitive data" is prohibited. Sensitive data according to the definition section, mean those data that relate to the racial or ethnic origin, the political convictions of a person, his religion or philosophical beliefs, his personal intimate life, his participation in any association, trade unions, his criminal record or pending criminal cases against him. The Law is administered by the Personal Data Commissioner appointed by the Council of Ministers on the recommendation of the Minister of Interior and after consultation with the Parliamentary Committee for European Affairs. The Commissioner must possess the qualifications needed to be appointed a Judge of the Supreme Court, holds office for a term of four years renewable for another four years and cannot be dismissed except for reasons of mental or physical infirmity.

The Supreme Court Registry has an assistant who deals directly, if need be, with the media and the public. Moreover, the Supreme Court may issue an announcement on sensitive issues that affect justice or where the facts of a particular situation need to be set out correctly and in their true perspective.

In Criminal cases where the proceedings are held in camera and to the exclusion of the media, the Court invariably issues a short announcement explaining the basic issues, summarizing the evidence and the outcome of those cases that may be of a general interest to the public.

The Supreme Court is currently setting up an Internet site where, apart from decided cases, general information on the judicial system, will be provided. Also a Legal Information Site is to be set up containing all judgments.