



REPUBLIC OF CYPRUS
PERMANENT REPRESENTATION TO THE COUNCIL OF EUROPE

Ref. No.: 24.24.13.18

04 October 2024

Mr. Adrian Evtuhovici
Coordinator of the Platform
For the Protection of Journalists
Council of Europe

Dear Mr. Evtuhovici,

We wish to refer to the alert created on the Platform to Promote the Protection of Journalism and the Safety of Journalists on 19 July 2024, with the title "Proposal to Criminalise Fake News in Cyprus" and to attach hereto the reply of the Authorities of the Republic of Cyprus.

We would be grateful if the reply is published on the Platform.

Yours sincerely,

Kostas Psevdiotis
Deputy Permanent Representative



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*Reply of the Authorities of the Republic of Cyprus
regarding the alert with the title "Proposal to Criminalise Fake News in Cyprus"
created on 19/07/2024*

The bill titled "The Criminal Code (Amendment) (No. 3) Law of 2021" was submitted by the Ministry of Justice and Public Order to the House of Representatives in March 2021 and has since been pending in the Parliamentary Committee on Legal Affairs, Justice, and Public Order, where it has been discussed in numerous sessions.

The bill establishes the following four (4) criminal offenses:

- 1) the dissemination of false news, through telephone communication, or through message;
- 2) the dissemination of offensive and/or indecent, and/or obscene and/or threatening content, either through telephone communication, or through text;
- 3) the dissemination of false content, either through publication or posting, in any manner or in any form;
- 4) the dissemination of offensive and/or indecent, and/or obscene and/or threatening content, either through publication or posting, in any manner or in any form.

The provisions of the proposed offenses (3) and (4) include safeguards for the accused, since they contain grounds for defense in favour of the accused and also the defendants can only be prosecuted by the Attorney General of the Republic or upon his approval.

The reason for drafting this particular bill was to transfer the provisions of two offenses that were previously included in the Regulation of Electronic Communications and Postal Services Law of 2004 (Law 112(I)/2004), as it was deemed appropriate to be included in the Criminal Code for reasons of legal coherence and order, since the Law 112(I)/2004 contains only regulatory provisions. The two offenses included in Law 112(I)/2004 were (1) the sending, through a public communications network, of a message or anything else which is grossly offensive and/or obscene, or indecent, or threatening in nature, or (2) the sending, through a public communications network, with the purpose of causing annoyance, harassment and/or unnecessary worry to another person, of a message which the sender knows to be false and/or the persistent use of a public communications network for the aforementioned purpose. These two offenses correspond to the offenses described above as (1) and (2).

Following a recommendation from the Legal Service of the Republic, after the latter studied English law and jurisprudence, being a commonwealth country, as Cyprus, the Ministry of Justice and Public Order added two more offences in the bill, that of falsehood, as well as that of blatantly offensive and/or obscene and/or indecent and/or of a threatening nature, as long as they are committed through publication or posting.

It must be pointed out that during the preparation of the bill, the Ministry of Justice and Public Order did not have journalists in mind, but anyone who commits the offenses provided for in the bill and that the purpose of the bill is to institutionalize something that is on the rise, for the protection of the citizen.



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During the discussions before the competent Parliamentary Committee, it was proposed by the various journalists' organizations, to exempt them from the provisions of the bill, a suggestion that both the Ministry of Justice Public Order, as well as the Legal Service of the Republic viewed positively at first glance. It was admitted, however, that the definition of "journalist" is not defined in the national law.

The offence of publication of false news, is already regulated in Article 50 of the Criminal Code (Cap. 154) of Cyprus¹. It does not constitute an entirely new criminal offence.

It is worth mentioning that, in the meantime, there was an amendment to the Law 112(I)/2004, for compliance purposes with a specific European Directive and in the context of this process, the provisions establishing the said criminal offenses referred to above, were abolished. Therefore, following the abolition of the said provisions, there is now a gap in the law.

The bill, following its submission, was subjected to several changes, based on the discussions held before the competent Parliamentary Committee and always after consultation between the Legal Service of the Republic and the Cyprus Bar Association.

According to Article 19 of the Constitution of Cyprus, the exercise of the right to freedom of speech and expression may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

From the above, it follows that any intervention that falls under the above categories, is permissible and does not constitute a violation of Article 19 of the Constitution.

On August 1st, 2024, a meeting took place at the Ministry of Justice and Public Order, for the discussion of the bill. The meeting, which was presided over by the Minister of Justice and Public Order, was attended by representatives from the Legal Service of the Republic, the Cyprus Bar Association, the Union of Cypriot Journalists, the Publishers' Association, the Committee of Media Ethics and the Institute for Mass Media. A useful and beneficial exchange of views took place and the whole range of the provisions of the said bill was discussed. Particular emphasis was placed on the right to freedom of expression, as this was developed through the concerns of the professional bodies, as well as on the protection of the citizens from malicious posts on social media.

¹ Article 50 of the Criminal Code, Cap 154

Title: Publication of false news

1) Any person who in any manner publishes in any form false news or information which may impair public order or the confidence of the public in the state or its organs or to cause fear or concern to the public or to disturb in any way public peace and order shall be guilty of an offence and shall be punishable with imprisonment for a term not exceeding two years or with a fine not exceeding one thousand five hundred pounds or with both such penalties:

Provided that it shall be a good defence for the accused to prove to the satisfaction of the Court that the publication was made in good faith and on the basis of facts justifying such publication.

For the purposes of this sub-section, the provisions of paragraphs (a) and (b) of section 201 in relation to good faith shall apply.

2) No prosecution under this section shall be instituted without the written consent of the Attorney-General of the Republic.



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The Minister of Justice and Public Order has taken into account the views of the professional bodies, the Cyprus Bar Association and the Legal Service of the Republic and following a mutual agreement, it was decided that a group of legal experts will be formed, so that they will process and evaluate possible solutions to satisfy the above concerns. As a result of the above, the Parliamentary Committee was asked by the Minister of Justice and Public Order to postpone the discussion of the bill for a reasonable period of time, in an attempt to converge opinions and reach a wider consensus on this matter. The Ministry of Justice and Public Order issued a relevant statement that day.

Based on the above, the Government's position is clear: On the one hand, to protect the journalist profession and on the other hand, to safeguard every citizen of this state from malicious comments on the internet. Unfortunately, while under other circumstances the exception proposed would lead directly to a solution, however, the fact that the professions of journalist, publisher, etc., are not regulated by law, creates problems. Since the intention of the Government is to protect both of the above mentioned, for this purpose the Government will seek to find the golden ratio.

October 04, 2024

