

The right of freedom of expression and its limits: Hate speech in Cyprus public television (CyBC). Interview given by the singer Notis Sfakianakis on the CyBC programme ‘Tête-à-Tête’

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Abstract

In a democratic society the right to freedom of expression is never absolute. However, the setting of limits has always been a point of friction and discussion. The authorising bodies must examine each case set before them and decide whether it constitutes an attempt at unwarranted limitation or, in the opposite case, of misappropriation of that right. This also applies in the case of Journalistic Ethics Commissions, which, on the one hand, are called upon to defend the rights of media practitioners to free expression and, on the other, to protect society from messages with unethical content. In this paper the right of expression is juxtaposed to the need to avoid disseminating messages based on racist hate speech.

Keywords: Media ethics, freedom of expression, hate speech, racist speech, self-regulation, refugees, migrants, Media Ethics Commission, Council of Europe, CyBC.

Introduction

On 13 March 2016, the Cyprus Broadcasting Corporation’s (henceforth ‘CyBC’) television programme ‘Tête-à-Tête’ broadcast an interview of Greek singer Notis Sfakianakis. Four days later, the Cyprus Media Complaints Commission received several complaints; among the complainants were the Movement for Equality, Support, Anti-Racism NGO (KISA), the trade union SIDIKEK (PEO), and Yiannos Lamaris, the Parliamentary Representative of AKEL, the left political party. All the complainants expressed their strong objection to the content of the aforementioned broadcast. Specifically, the complainants alleged that the interviewee made racist and xenophobic statements, which CyBC allowed to be broadcast in violation of provision 12 of the Journalists’ Code of practice². It is noted that the programme

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² “The Media shall avoid any direct or other reference or action against persons which contains ele-

was not broadcast live and despite the fact that, as the complaint stressed, CyBC was asked not to broadcast the singer's xenophobic statements, the TV channel did in fact broadcast the interview not once but a total of three times (two repeats). Following the lodge of the complaints, the Commission, as its usual practice is, asked CyBC for its position on the matter. The channel replied stating that it 'categorically rejects and strongly opposes the complaints'.³ It also stated that the freedom of expression, the free movement of ideas and the expression of all points of view prevail and are at the centre of the attention for the CyBC.⁴ 'regardless of whether or not we agree with them'. It further mentioned that any form of censorship or a ban on broadcasting the programme would violate these principles and would be illegal and unethical. In another part of its response, CyBC pointed out that it always seeks to the judgment of its audience and of the society, in general, for the quality of its programmes; a society, which is 'capable of rejecting ideas and views which it does not share or adopt. It's important to have an open debate and CyBC intends – and acts on its intention continually – to invite a counter-argument in the near future'.⁵

When invited to express his opinion the presenter of the programme, Tasos Tryfonos, stated that he had asked Mr Sfakianakis to steer clear of matters that would offer him an opportunity to develop his extremist positions with regard to political or social issues, the extreme right Golden Dawn party, the junta, migrants, civil partnership, religion etc., and that Mr Sfakianakis had agreed. He added that at no time during the programme had he asked any questions about immigration or refugees, and when his guest began to make comments against migrants he attempted to express his disagreement with what he was saying, and when in spite of this his guest refused to comply, he changed the subject. The presenter also stated that when the programme was edited, they kept the extract in issue, because he felt that there had been no incitement to hate speech but only an expression of Sfakianakis's personal views and that he should be judged on these since, despite all admonitions, he insisted in voicing them. Finally, Mr Tryfonos stated that in his

ments of prejudice on the basis of race, colour, language, religion, political or other convictions, ethnic or social origins, property, descent, gender and personal status, including physical or mental illness or disability. It is not permitted to mock, ridicule or vilify individuals or groups of persons".

³ Cyprus Media Complaints Commission, *Decision 12/2016*, Nicosia, April 2016. Available at: http://www.cmcc.org.cy/Decisions/index_2016_files/12_2016.html

⁴ Ibid.

⁵ Ibid.

daily radio broadcast and in his articles in a Sunday newspaper he always expresses himself against racism and xenophobia.⁶

Historical and Theoretical Background

When examining complaints of this nature, Ethics Commissions decide whether the media and their practitioners misuse the right of freedom of expression – a fundamental human right which has been institutionally protected since last century.

In the Athenian Republic this right may not have been statutory but it was nevertheless taken for granted (Voudaskis 2001:26). As active members of the community, Athenian citizens were not simply free to express their opinions, but in effect were obliged to do so. ‘A citizen pure and simple is defined by nothing else so much as by the right to participate in judicial functions and in office’.⁷ Indeed, for Plato Athenians, more than anyone else, enjoyed the freedom to express an opinion; ‘if having come to Athens, where there is more freedom of speech than anywhere else’.⁸

In ancient Rome, particularly in the years of the Republic, freedom of expression was prevalent to a remarkable degree. It was Seneca who introduced the definition of the ‘useful citizen’⁹, while Cicero, when defending the people’s right of expression, noted that without this right gatherings of the people would not resemble gatherings of human beings.¹⁰ The tolerance to freedom of expression in ancient Rome came to an end with the appearance and spread of Christianity (Voudaiskis 2001:37-39).

During the Middle-Ages, in both the European West and the Byzantium, the right of free expression was essentially abolished. From the edict of Milan and the safeguarding of the right of religious tolerance – 313 AD – the world was led to the authoritarian edicts of Theodosius the Great and Justinian who, wishing to impose the new religion and, through it, their hegemony over the peoples of the region, fought with great passion against the remnants of the classical age, going as far as to close down the Greek schools and forbid the teaching of philosophy and interpretation of law¹¹. A similar situation, possibly even worse, prevailed in the west of Europe, which was dominated by obscurantism imposed by the Roman Catholic

⁶ Cyprus Media Complaints Commission, Decision 12/2016, Nicosia, April 2016.

⁷ Aristotle, Politics C1, 1275a 22-23.

⁸ Plato, Gorgias, 461e 1-3.

⁹ Seneca, De tranquillitate animi, II 1-11, III, 1-3, IV, 1-4, 7-8.

¹⁰ Cicero, De republica, XXXVII

¹¹ Lemerle P, *Byzantine Humanism: The First Phase*, p 66.

Church. In an era where everything was under the absolute power of the Pope and the local feudal lords, there was no freedom of expression. Any intellectual activity was conducted in an absolute manner within the framework set by the Church. Any initiative operating outside this framework was considered cursed and subject to condemnation by the Medieval Roman Catholic Church (Vouidaskis 2001:70).

It took many struggles and sacrifices for the world to achieve the first constitutional enshrinement of the right to free expression. The first hints of freedom of expression are found in the Magna Charta Libertatum¹², which is considered the first constitutional document in the history of mankind – 1215 AD, but even there no clear reference is made to the right of free expression. It was five centuries later that a straightforward reference to the right of free speech appeared in the Bill of Rights of the State of Virginia, which was published on 12 June 1776. In particular, article 12 makes reference to freedom of the press, which the legislator considers ‘one of the most powerful bastions of freedom which can be limited only by authoritarian governments’.¹³ The French Revolution of 1789 led to the institutionalisation of free expression in Europe as well. In article 11 of the French Declaration of the Rights of Man, the free communication of ideas and opinions is regarded ‘one of the most precious of the rights of man’.¹⁴

In the modern age, the right to receive and transmit ideas and information is safeguarded legally and morally through scores of Conventions, Declarations, Decision and Codes of international, national and specialised organisations. This right relates to each citizen individually and to journalists and the media in general. Indicatively, this right is recognised, safeguarded and regulated by:

- Article 19 of the Universal Declaration of the United Nations (1948).
- Article 10 of the Rome Convention of the Council of Europe for the Protection of Human Rights and Fundamental Freedoms (1950).
- Article 18 of the UN Agreement on Civil and Political Rights (1966).
- Chapter 2 – on the value of information, of the Final Act of the Helsinki Conference on security and cooperation in Europe (1975).
- Articles I and II in the section relating to the Media of the UN Declaration on Education, Science and Culture of 1978.

¹² Magna Charta Libertatum (Magna Carta) was the legal written document King John Lackland was forced to agree to, following the uprising in 1215 of the barons and progressive clergy of England.

¹³ Swindler W., Sources and documents of United States Constitutions Bd7, New York, 1948, p.402.

¹⁴ Barbier and Lavenir, History of the Mass Media, p.80.

- Article 11 of the EU Charter of Fundamental Rights (2000) and others.

However, the right of free expression was never absolute in nature. On the contrary, it was subject to specific limitations during each historic period.

While the ancient Athenian Republic recognised and encouraged the right to free expression among free citizens, at the same time it elaborated self-defensive mechanisms, which prevent the collapse of social order, the anarchy, the rule by the mob or the prevalence of lawlessness.¹⁵ The ancient Greek philosophers and scholars preached measure in all things and considered that human discourse could not reach the point of hubris.¹⁶

In Ancient Rome, despite the fact that the State appeared fairly tolerant and encouraged freedom of expression, it was considered unacceptable for freedom of speech to insult the honour and reputation of either the Emperor or free citizens. *Lex duodecim tabularum*¹⁷ contained a provision for severe penalties – even death – for anyone who verbally or in writing shamed or humiliated someone else.¹⁸ (Vouidaskis 2001:38).

In more recent years and in the modern age it has become clear that the right to free expression cannot and is not absolute. If we focus attention on the European Convention on Human Rights and Fundamental Freedoms, we observe paragraph 2 of article 10¹⁹ curtails the freedom of expression in the interests of state security and the safety of citizens, and where the rights and freedoms of others begin. It is also worth noting that article 10 is implemented in direct conjunction with article 17, which also forbids abuse of the rights granted by the convention in connection with acts aimed at destroying rights and freedoms or limiting them to an extent greater than that provided in the Convention.

¹⁵ Vouidaskis, V. The right to freedom of expression and the Mass Media. Papazisis, Athens, 2001, p.31.

¹⁶ Aeschylus, Eumenides, 523-533.

¹⁷ *Lex duodecim tabularum* was one of the most important sets of laws of the democratic period of Rome. It was enacted in around 450 AD and remained in force until the time of Justinian in the 5th century AD.

¹⁸ Vouidaskis, 2001, p.38.

¹⁹ “Since the exercise of these freedoms involves duties and responsibilities, it may be subject to wording, conditions and restrictions or sanctions, because these are prescribed by law and are necessary in a democratic society for reasons of national security, territorial integrity or public safety, in order to prevent disturbance of the peace and crime, to protect health and morals, to protect the reputation and rights of others, to prevent the publishing of information received in confidence, or to protect the prestige and impartiality of the judicial power “.

The European Court of Human Rights (ECHR) has cited and interpreted this article in numerous cases when trying applications before it. Although in all its judgments it is emphasised that the right of free expression must be respected, at the same time it is made clear that abuse of that right is not tolerated by the court.

Leaving aside the broad range of cases which might justify the restriction on the right to free expression, this paper focuses on those which are linked to the encouragement and dissemination of racist messages through the Mass Media. It is crystal clear that the provisions of the ECHR are particularly strict when the abuse of the freedom of expression relates to racist behaviour or to articulation of hate speech. Indicatively, the following cases are cited:

Norwood v. the United Kingdom 16 November 2004: In this case, the applicant was appealing against his conviction for flagrant hostility against a religious group, after he had posted on his window a poster of the BNP showing the Twin Towers in flames with the caption ‘Islam out of Britain – Protect the British People’. The Court decided that such a sweeping attack against a whole racial group – Muslims – did not accord with the principles declared and guaranteed by the Convention, and particularly the principles of tolerance, social peace and non-discrimination.²⁰

Pavel Ivanov v. Russia 20 February 2007: In this case, the court vindicated the Russian state and courts, stating that the applicant, being the owner and Editor-in-chief of a newspaper, disseminated through his newspaper views which instigated ethnic, racist and religious hatred. Specifically, he had accused an entire ethnic group – the Jews – of conspiracy against the Russian people and accused the Jewish leadership of having a fascist mentality. The ECHR decided that a violent and generalised attack was contrary to the fundamental principles of the Convention, and particularly the principles of tolerance, social peace and non-discrimination.²¹

M’bala v. France, 20 October 2015: The ECHR dismissed the application of the French comedian and activist Dieudonné M’bala M’Bala, who, as was stated in the judgment, under the pretext of satire presented an award to the academic Robert Faurisson for his view that there were no gas chambers in the Nazi concentration camps, thus disseminating anti-Semitic and offensive messages and denying the Holocaust. The ECHR, applying article 17, underlined that the comedian’s conviction by a French court could not have the protection of article 10. The court’s

²⁰ Decision available at: <https://globalfreedomofexpression.columbia.edu/cases/norwood-v-uk/>

²¹ Decision available at: <https://globalfreedomofexpression.columbia.edu/cases/pavel-ivanov-v-russia/>

interpretation of the content of the performance - Robert Faurisson went up on stage and was offered the award: a three-pronged candlestick with an apple on each prong, by a man dressed in a striped costume, reminiscent of Jewish prisoners in Nazi concentration camps, without a word being said throughout this ceremony - was that under the cover of a satirical artistic production, the applicant was spreading hatred and humiliating an entire group of people. The ECHR noted that this fact, namely concealed hate speech, was as dangerous as a direct attack.²²

In addition to the legal approach, there is also an ethical approach to the matter; that is to say, freedom of expression must be consistent with the voluntary setting of boundaries without external coercion and interventions. The question of 'what must be done' in the case of journalistic creative writing is linked to the notion of self-regulation. Self-regulation is a conscious voluntary act which relies on universal values, moral principles, unwritten ethical laws, and is combined with the concepts of social and physical necessity. (Pavlidis 2009:24). 'What must be done' according to Friedrich Hayek²³ is interwoven with the concept of responsibility. 'Freedom does not mean only that the individual has, at the same time, opportunity and burden of choice. It also means that he bears the consequences of his actions and accepts praise or criticism for them. Freedom and responsibility are indivisible notions'. (Patras University, Media and Ethics, 1999:34)

American professor Todd Gitlin²⁴ moves on the same wavelength when he states that 'ethics is a function of freedom'. Journalists who are called upon to respect ethics are, he adds, free people. We are not referring to the ethics of subjugated persons, although, as he notes, even slaves can make some choices. Todd Gitlin insists that 'journalists are free, they work on the basis of the topics they choose freely as professionals and society expects them to do their job correctly. Society needs the free flow of information which it considers the 'blood' of democracy'. (Papathanassopoulou and Komninou, 2000:21)

With regard to the Media, ethics is a set of rules and principles which are set by the profession itself, preferably in cooperation with other social agencies, in order that they respond better to the needs and best interests of the various population and social groups. The press maintains its freedom, the oxygen it needs to keep alive,

²² 'M'Bala M'Bala v. France', Global Freedom of Expression, Columbia University. <https://globalfreedomofexpression.columbia.edu/cases/mbala-v-france-no-2523913> .

²³ Friedrich Hayek (1899 - 1992), classical neo-liberal Austrian economist and philosopher.

²⁴ Todd Gitlin, sociologist, political writer, novelist and analyst.

while at the same time, taking on the responsibility of serving journalism well and, by extension, society and citizens also. The founder of the French newspaper 'Le Monde' Hubert Beuve-Méry, established the triptych: Freedom-Truth-Responsibility. According to him, these three notions coexist and move within a system of interdependence. French journalist and author Albert Camus moved along the same lines when he said that the press 'when it is free can be good or bad. But when it is not free it can only be bad' (Manos Sifonios, 1999:197). Freedom of the press is a condition for the press to fulfil its basic mission, which is none other than the quest for truth, research and the provision of pluralistic, timely and valid information to the public. In this process, a very important element is the responsibility borne by the journalist; a responsibility towards the truth, a responsibility towards the freedom given him to seek the truth, as well as a responsibility towards the citizens who are the final recipients of the products. When one of the three basic axes of Hubert Beuve-Méry is not functioning properly, the entire system is threatened. When the Media and its officers, willingly or unwittingly, attach less importance to the concept of responsibility, the natural consequence is that they jeopardise both freedom and the primary mission of the Media itself. (Pavlidis, 2009:127)

When delimiting journalistic boundaries, journalistic codes of ethics all over the world refer specifically to the requirement the Media and the journalists not to allow hate speech, the dissemination of messages with racist or similar content. Indicatively, it is mentioned that:

- Providence 12 of the Editor's Code of Practice of the IPSO (Independent Press Standards Organisation) underlines that 'the press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability'.²⁵
- Providence 10 of the Code of Ethics of the Swedish Press Council provides that those working for the Media and the Media themselves should not emphasize race, sex, nationality occupation, political or religious views or the sexual orientation of the persons they refer to.
- In a similar way, in providence 12 which refers to discrimination, the Cyprus Journalists' Code of practice underlines that 'the Media must avoid any direct or other reference or action against persons which contain elements of prejudice based

²⁵ Editor's Code of Practice, 'Discrimination', IPSO - Independent Press Standards Organisation. <https://www.ipso.co.uk/editors-code-of-practice/#Discrimination>

on race, colour, language, religious, political or other beliefs, ethnic or social origins, property, descent, gender and personal status, including physical or mental illness or disability. It is not permitted to ridicule, mock and vilify individuals or groups'.²⁶

At this point it is useful to mention that in an effort to avoid spreading hate speech through digital media and following intensive consultations, the European Commission and representatives of internet providers agreed to draw up and adopt a code of ethics. The agreement, which was announced on 31 May 2016, states among other things that '...information technology operators undertake to continue their efforts to tackle illegal hate speech on the internet. This includes the continuous development of internal procedures and staff training, in order to ensure that they examine the majority of valid requests for the withdrawal of illegal hate speech in less than 24 hours, and, if necessary, to withdraw the content in question or block access to it. Information technology operators will also try to enhance cooperation with civil society organisations, which can contribute to the flagging of content which incites acts of violence and hatred. Information technology operators and the Commission are also planning to continue their efforts to identify and promote independent alternative narratives, new ideas and initiatives, and to support educational programmes which encourage critical thinking'²⁷.

The issue of hate speech in conjunction with fake news which is found mainly on the digital Media was also the subject of discussion at the plenary session of the European Parliament on 5 April 2017. Despite the fact that there was no unanimity as to how to tackle the problem, MEPs expressed their concern regarding the gravity of the problem. Among the suggestions expressed, were the removal of the false and libellous content, the imposition of fines on operators who do not comply, and the promotion of literacy in the Media. Many speakers also asked internet companies to intensify their efforts to ensure that the fake and libellous content be removed quickly. Indeed some asked the Commission to look into the possibility of the EU proposing new legislation on the matter.²⁸

²⁶ Code of Practice, Cyprus Media Complaints Commission. http://www.cmcc.org.cy/code_practice2_gr.html#aliens .

²⁷ European Commission and IT Companies announce Code of Conduct on illegal online hate speech, European Commission Official Website, 31 May 2016. http://europa.eu/rapid/press-release_IP-16-1937_el.htm .

²⁸ Hate speech and fake news: remove content, impose fines, foster media literacy?, Press Release, 5 April 2017, European Parliament News <https://www.europarl.europa.eu/news/en/press-room/20170329IPR69072/hate-speech-and-fake-news-remove-content-impose-fines-foster-media-literacy> .

Quotes from the interview of N. Sfakianakis broadcast by the CyBC

Taking into consideration the complaint against CyBC examined by the Cyprus Media Complaints Commission, the following important points are noted:

- The remarks in question covered a total of six minutes. During that time, when describing the migrants from Syria, the interviewee used the term 'illegal immigrants' five times and the term 'ριψάσπιδες' - meaning cowards who desert in times of war -, six times. He also made references to the 'rape' of Greece by such people.

Also worthy of note are the following phrases that he used in order to express his view on the phenomenon of the mass arrival of refugees from Syria to Greece in the period 2015 - 2016:

- 'No (entry) permit means illegal migration, it means rape'
- Those who come from Syria 'are not refugees, but 'ριψάσπιδες', deserters'
- 'These people (meaning refugees) come to Kos with wallets full of 500 euro notes. They are all rich kids, we are talking about a lot of money.'
- 'You leave Syria, you are a refugee, but you are also a deserter, you take the money your parents gave you...'
- 'What am I (Greece)? A transit centre? ...Why should they come through here? Why not stay in Turkey, where they speak the same language and have the same religion?..'
- 'My wife is foreign as well, but she did not come here illegally to rape my country'
- 'I have experienced racism, we are not racists...the Americans, the Germans, the English, they are racists'
- 'It's all a set-up. Hordes of people came here to rape our country.'
- 'About twenty years ago Turgut Ozal, the prime minister of Turkey said: 'In order to be done with the country opposite us we will throw a couple of million Muslims at them and that will be the end of Greece'. That is what is happening now. That is the crime they are committing.'
- 'They are Islamizing our country and some time- in about ten years because they breed like rabbits, there will be no more Greece, no more Greeks'

- 'I am not interested in understanding the position of others which is wrong'
- 'I have a memory while most of them (meaning those who disagree with him) do not. He who has a memory is entitled to speak, whereas those who do not...do not have that right'.

The Commission's Decision

Upon examination of the contents of the interview, the Cyprus Media Complaints Commission found that the singer without provocation 'launched into uncontrollable racist and xenophobic rhetoric which lasted at least six minutes'.²⁹ The Commission judged unanimously that a number of statements violated the Code's article on discrimination (article12). The Commission judged that the presenter made efforts to control the discussion. Indeed, it found that at some point he defended the irregular migrants, who become refugees in order to save their lives. However, the interviewee interrupted him stating that these people are 'cowards' and 'deserters', because they were not attacked by another country but were fleeing in order to escape the civil war. Mr Sfakianakis also said that they arrive in Greece with wallets 'stuffed with 500 euro notes', insisting on denigrating these people.

The Commission judged that the CyBC has a responsibility for offering Mr Sfakianakis an opportunity to launch into a speech full of bigotry and racist attacks. Its responsibility is made greater by the fact that although it had the possibility not to broadcast the hate speech content, which was in contravention not only of journalistic ethics but also violated the law on Combating Racism³⁰, it did not do so. It is noted that the programme was taped and therefore CyBC could either not broadcast it at all or it could cut the points in issue, particularly after the interventions made to the Corporation's management.

As its excuse for broadcasting the racist hate speech, the CyBC cited the right to free expression, the dissemination of ideas and the promotion of all points of view. The Commission noted that the right to free expression is not without limits, but is subject to the restrictions of respect for the rights of others, the upholding of legality and journalistic ethics. It is not permitted for a public television station, in the name of free expression, to broadcast racist views, indeed by a singer, a person of influence, particularly among the young, and therefore with more power to

²⁹ Cyprus Media Complaints Commission, Decision 12/2016, Nicosia, April 2016.

³⁰ The harmonising law on the combating of certain forms of racism of 2011 provides for 5-years imprisonment and €10.000 fines for anyone transmitting racist messages.

transmit his xenophobic views. Not only does it not constitute censorship, but, on the contrary, the avoidance of transmitting the hate speech mentioned earlier, would comply with the imperatives of the law and journalistic ethics. The promotion of polyphony does not mean promotion of free licence and impunity. In the same way, by invoking the right to free expression, a paedophile could be permitted to express his views in favour of paedophilia. With regard to the Corporation's position that society is capable of rejecting ideas and views which it does not embrace or adopt, the Commission judged that society should not be burdened with responsibilities it does not possess. The Commission also noted that despite the worthy efforts of the presenter, there was in effect no counter-argument to his guest's hate speech. The Commission pointed out that that television presenters have a duty at all times to separate their own positions from such cases with conviction and determination.

It is noted that during the broadcast, a moving subtitle appeared stating that the CyBC does not agree with the interviewee's views, but the Commission did not consider this an adequate remedy, nor could it be considered to acquit the Corporation of responsibility.

Theoretical (hypothetical) case

The following rhetorical question is asked: could this interview have acted as a wake-up call to the public? There are certainly cases where references or citations of hate speech could be used precisely in order to raise awareness against discrimination, racism, xenophobia and racial hatred. One such case was brought before the ECHR in 1994. It concerned the broadcasting of messages containing powerful elements of hate speech, but with the aim of awakening Danish society and encouraging it to take action against a racist youth group.³¹ In this particular case, the applicant was the journalist Olaf Jens Jersild, from the Danish state broadcasting service and presenter of a programme aimed at a specific, highly educated audience, with the objective of discussing serious matters of topical interest.

In its judgment the court noted that following articles in the press on the activities of an extremist youth group known as Greenjackets, the journalist took 6-hour long videotaped interviews of three members of this organisation. These persons made insulting and offensive comments about migrants in Denmark and made denigrating remarks about black people, saying that they were no different

³¹ 'Jersild v. Denmark', Global Freedom of Expression, Columbia University. <https://globalfreedomof-expression.columbia.edu/cases/jersild-v-denmark/>.

from apes and that racism is a good thing. They also admitted to having had dealings with the law in connection with criminal acts and clashes with the police. Based on this material, the journalist prepared a short report which was broadcast among other reports on his programme. The reporter stated several times that neither he nor the state channel shared the views expressed, and that the purpose of broadcasting them was to present the racist and criminal nature of this group, given that they had confessed to many offences against migrants as well as ordinary crimes, such as burglaries and clashes with the police.

The three young men were charged and convicted of racist statements against black people and migrants. The presenter and the head of the news department were charged with providing support to the three youths and the court fined the journalist one thousand crowns (about €135) and the head of news 2000 crowns (about €270), or alternatively, five days imprisonment each. The ECHR, to which the journalist applied, decided by a majority that the purpose of the interview with the three youths was to expose the racist views of the Greenjackets and to demonstrate their social background. The court also stated that the young men had no right to invoke the provisions of article 10 on freedom of expression. On the contrary, it vindicated the reporter ‘who attempted to expose, analyse and explain’ this youth group and deal with ‘specific aspects of an issue which was already a cause of great public concern’.³² As the ECHR stated in its judgment, an important factor in its assessment was ‘whether the question in issue, when examined as a whole, viewed objectively, appeared to have as its aim the spread of racist views and ideas’.³³ And it added: ‘the general impression of the programme was its aim was to draw the public’s attention to a matter of great concern, namely racism and xenophobia’.³⁴ According to the ECHR, the applicant deliberately included the blameworthy views, not in order to spread racist ideas, but in order to tackle them by disclosing them³⁵. It also stated the reporter’s position, and that of the

³² European Court of Human Rights, *Jersild v. Denmark*, Case Number N.15890/89, Strasbourg, 23 September 1994. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57891%22%5D%7D>

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ The ECHR stated verbatim: ‘There can be no doubt that the interviews achieved that aim. Taken as a whole, the programme could not objectively be taken as aiming to spread racist ideas and views. On the contrary, it clearly intended to expose, analyse and explain this specific group of youths, limited and disappointed by their social condition, with criminal records and violent behaviours, dealing in this way with a matter regarding which there is great public interest. In addition, it must be taken into account

Council of Europe Committee on Human Rights, that the youths' racist views 'in the programme as a whole, resulted in ridiculing them rather than promoting their racist opinions'.

In light of the above points, the ECHR decided that the applicant's conviction by the domestic courts overlooked important factors, such as the aim of the programme, and declared their decision to be contrary to article 10.

In the case of the interview of Mr Sfakianakis on Cypriot public television, it cannot be claimed that the racist views were used either by the CyBC or the presenter in a way similar to that used on Danish state television.

References

Aeschylus, Eumenides

Aristotle, Politics C1, 1275a 22-23.

Barbier, F. and Lavenir, K (1999) History of Mass Media. Athens: Dromeas.

Bertrand, J.C. (2003). Deontology of the Mass Media. Athens: Zacharopoulos. [in greek]

Bloy D. & Hadwin, S. (2011) Law and the media. London: Sweet & Maxwell.

Caristi, D.& Darvie, W.R (2018) Communication Law. New York: Taylor and Francis, 2018

Cicero, De republica, XXXVII

Cyprus Media Complaints Commission, Decision 12/2016, Nicosia, April 2016.

Deligianni, E. (2004). Mass Media Ethics. Athens: Sideris Publication. [in greek]

European Court of Human Rights, Jersild v. Denmark, Case Number N.15890/89, Strasbourg, 23 September 1994.

Kiki, G. (2003) Codes of professional deontology. Athens: Sakkoula Publication. [in greek]

Kominis, L. (1990) The secrets of Journalism – Deontology. Athens: Kastaniotis. [in greek]

Lemerle P, Byzantine Humanism: The First Phase (1976)

Papathansopoulos, S. and Komninou, M.(1999) Issues of journalistic deontology. Athens: Kastaniotis. [in greek]

that the programme was broadcast as part of a serious news programme in Denmark and was addressed to a well-informed audience'...'The applicant's aim when preparing the programme was not racist'.

- Pavlidis G. (2009) *Journalistic deontology: Self-regulation or imposition*. Nicosia: IMME. [in greek]
- Plato, *Gorgias*, 461e 1-3.
- Seneca, *De tranquillitate animi*, II 1-11, III, 1-3, IV, 1-4, 7-8.
- Sifonios, M. (1999) *What do Mass Media mean?* Athens: Livanis. [in greek]
- Steel, J. (2012) *Journalism and Free Speech*. London: Routledge.
- Swindler W., *Sources and documents of United States Constitutions Bd 7*, New York, 1948
- Vouidaskis, V. (2001) *The right to freedom of expression and the Mass Media*. Athens: Papazisis, Athens. [in greek]