

KISA convicted for action in 2010 against online hate speech

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On 05.06.2020, the Court convicted KISA for actions in 2010 in the framework of its mandate as an NGO. These actions, as recorded in a relevant KISA report, aimed at combating hate speech and nationalism online. The Court ruled that a draft petition we prepared for consultation with other NGOs was defamatory for Mr Christos Clerides.

KISA, as a NGO, which since its establishment is fighting against racism and hate speech, had and continues to have the position that the Christofias Watch website expressed hate speech and incited violence against migrants, Muslims, NGOs and other agencies fighting for the respect and promotion of human rights and against racism. Christofias-Watch targeted especially those who supported a Bicomunal Bizonal Federation for the solution of the Cyprus Problem and the “Yes” at the referendum of 2004 / the Annan Plan. One of the instances of this was incitement of hate and violence against the dignity and life of journalist Makarios Drousiotis. The webpage repeatedly expressed the position that Mr Drousiotis «in any other regular country in the world ... would get what he deserved ...», implying with the following his execution as a traitor ... “Muslim lover, punk, coward, traitor. A pit of lime is what you need. Not even a bullet in the head.”

Mr Xenis Xenofontos was reportedly one of the administrators of the said webpage but the authorities’ attempts to investigate the commission of criminal offences failed for procedural reasons. Mr Christos Clerides took on his defence. At the time, Mr Clerides represented Cyprus at the Management Board of the Fundamental Rights Agency (FRA). Mr Xenofontos represented Cyprus at the same body as an alternate member for Mr Clerides, while KISA was a member of the NGO Platform of the same organisation.

As shown in the Court decision, KISA, on the basis of its position that both Mr Xenofontos and Mr Clerides no longer had the credentials to represent Cyprus on the Management Board of FRA. FRA, is an EU agency with the main role and mandate to guide member states to combating, among others, hate speech, xenophobia and racism. KISA contacted other human rights NGOs for a joint petition to FRA and the government – which proposes the persons to be appointed on the Board – with which we would be asking for their replacement.

The draft of the joint petition was forwarded to Mr Clerides by a journalist, who as established by an inquiry did not receive the message from KISA but from her mother. At the time, her mother worked for an NGO, to which KISA had sent the message, with a clear reference to non-forwarding to other recipients.

Mr Clerides and Mr Xenofontos proceeded immediately to filing a libel suit through the lawyer Mr Loukis Loucaides. Following this development and in consultation with the other NGOs, the initiative for the preparation of a joint petition was abandoned. A request to FRA or the government for their replacement by the MB was never sent to FRA, a fact about which the Court was not convinced by the testimony provided by the Director of FRA himself. At some point and after his appointment as judge, Mr Xenofontos withdrew his claim.

Unfortunately, KISA did not manage to convince the Court that the reason it criticised Mr Clerides, as part of its actions, was because-

- He was the main representative of Cyprus in FRA and should as of his position have known that the Christofias-Watch expressed hate speech and incited to violence.
- He should have actively engaged in combating hate speech and not to participate with interviews in the said webpage in a way that contributed to its being established and legitimised.
- As a member of FRA he should have declared his inability to represent a person accused as administrator of a hate speech website or he could resign from FRA

In view of the above, after serious consideration of the Court decision and legal advice, KISA has decided to appeal the decision. At this stage, however, we are particularly concerned that the Court does not appear to understand the role of NGOs, attributing bad faith in the exercise of one of their most important functions, i.e. criticism and pressure in pursuing their legitimate objectives, which in this particular case was combating hate speech, nationalism, racism and xenophobia.

The award of damages amounting to €10,000, plus interest for a period of ten years while the case was in court as well as legal expenses, strikes a severe blow against a non-profit organisation with no resources other than those from projects funded by the EU. We are concerned that this severe penalty is not irrelevant to the fact that, as follows from the Court's references, KISA insisted on exercising its right to a fair trial and not to compromise with an apology.

Steering Committee