**55th Anniversary of the Signature of the European Convention on Human Rights, by the Republic of Cyprus.**

**ECHR - 13th December 2016**

**Address by the Honourable President of the Supreme Court of Cyprus**

**Mr. Justice Myron Michael Nicolatos.**

**Honourable President and Judges of the ECHR,**

**Honourable Attorney General of the Republic of Cyprus,**

**Your Excellency, Permanent Representative of Cyprus in the Council of Europe,**

**Excellencies,**

**Ladies and Gentlemen,**

Cyprus gained its independence as a bi-communal sovereign State in 1960 and in 1961 it became member of the Council of Europe and it ratified the European Convention on Human Rights.

Despite the hard recent history of Cyprus, during the last decades, the Republic of Cyprus and its Judiciary, made every effort to maintain the Rule of law and the protection of human rights and democratic freedoms for all its citizens, as well as the other residents of the country. The Principles of the English Common Law and Equity, in the domain of Private Law, and the Principles of Continental Administrative Law, in the domain of Public Law, have worked very well in a unique European Legal System, of both Common Law and Civil Law.

We are proud for the independence of our Judiciary from any influence by the Executive or Legislative Powers. We are also proud of the impartiality and integrity of our Judiciary. There has not been a single proven case of corruption among the members of the Judiciary, since independence. The Courts are particularly keen in the protection of human rights and democratic freedoms. The Law applies to everyone equally, and nobody is above the Law. The Constitution of the Republic of Cyprus, which is the Constitution of 1960, with its amendments, gives protection to all basic human rights which are protected by the European Convention of Human Rights, and, in some instances, it gives higher protection to certain human rights, such as the right to property.

In 2004, the Republic of Cyprus became a full member of the European Union, and in 2007 its Constitution was amended, so that the European Union Law is recognised as superior, even to our Constitution. The European Charter on Human Rights, therefore, applies to the Republic of Cyprus and has superior force even to the Constitution.

There have been relatively few cases against Cyprus, over the last five decades, before the ECHR . To a large extent, this is a reflection of the effectiveness of our Judicial system and our respect for Human Rights. In many cases, the Supreme Court of Cyprus delivered important judgments which are examples of the Judiciary’s sensitivity for the protection of human rights. It has been held that fundamental rights and liberties, safeguarded by the Constitution, have to be narrowly construed and in case of doubt, they should always be interpreted in favour of the individual protected, rather than in favour of the state, or the Prosecuting Authorities.

The jurisprudence of the European Court of Human Rights is an authentic source of guidance for the interpretation of the European Convention on Human Rights and, as a rule, it is followed by the Courts of Cyprus, including the Supreme Court .

In its jurisprudence, the Supreme Court ruled that evidence deriving from an illegal source, is inadmissible, as its acceptance would constitute a violation of the right to a fair trial. In arriving at this conclusion, the Supreme Court followed the ratio of the decision of the European Court of Human rights in ***Texeira de Castro v Portugal, 9.6.1998***.

The Supreme Court has repeatedly pointed out in a number of its judgements concerning allegations of violation of the right to a fair trial, within a reasonable time, that all relevant principles, emanating from the jurisprudence of the ECHR “have to be adopted in our case law and judgements”.

Article 30.2 of our Constitution is identical with Article (6) (1) of the Convention. In ***Victoros v Christodoulou (1992) 1 CLR 512*** the Supreme Court set aside the judgement of the trial court ordering a retrial, due to inordinate delay by the trial Court in giving judgement, after the conclusion of the proceedings.

In ***Christopoulos v Police (2001) 2 CLR, 100***  the accused appealed against his conviction complaining, inter alia, that his trial was not concluded within a reasonable time and it was, therefore, unfair. The case had been repeatedly adjourned and it took six years to be concluded. The Supreme Court observed that the trial of the case was allowed to linger on for too long.The convictions were set aside, and the accused was discharged.

Following a number of condemning judgements of the EHRC, against Cyprus, in relation to the violation of the right of trial within a reasonable time, Law No. 2(I)/2010 was enacted. The above Law provides effective local remedies for exceeding the reasonable time in the Judicial determination of a litigant΄s rights and obligations.

Excessively lengthy proceedings, before the courts, is the main concern of the Supreme Court of Cyprus, today. Various measures have already been taken in order to deal with this structural problem, one of them being the establishment of a first instance Administrative Court in 2016. Disciplinary measures are also taken against judges who do not comply with Supreme Court directions for the timely issue of their judgements. Establishing a special Commercial Court and reform of our civil procedure rules and the Courts΄ management system, to allow for speedier proceedings, are under serious consideration. Full computerisation of our Court mechanism and the introduction of electronic Justice, are also under way.

An important case which is also worth mentioning and is of particular importance for judges and advocates is the case of ***Kyprianou v. Cyprus, 15.12.2005***. Mr. Kyprianou, an advocate, complained that he had not been tried by an independent and impartial tribunal, as the same court which claimed that he was in contempt of Court had also tried and punished him. The Grand Chamber of the ECHR took the opportunity to set out, in some detail, the extensive Convention case law on judicial impartiality and on the conformity with the principle that no one can be a judge in his own cause (“Nemo Judex in Causa Sua”). The Grand Chamber also considered Article 10, making some interesting remarks on advocates΄ freedom of speech in Court. As a result, the Cyprus Courts of Justice Law was amended, so that cases of contempt, can no longer be tried by the same Court before which the alleged contempt was committed, thus breaking a long standing tradition of the Common Law.

Going back to the last 55 years, I can say that Cyprus has made a big step forward in the protection of human rights, despite the many difficulties, political and financial. I can certainly say that the Cypriot society is today much more sensitive and tolerant to issues such as homosexuality, sexual abuse, and gender equality, than 50 years ago.

It can be noted, here, that ancient Greek Philosopher Zeno of Kition, who was born in Kition, ancient Larnaca in Cyprus and was the Fourder of Stoicism (the Stoic philosophy), recognised patience and tolerance as two great virtues.

Our membership of the Council of Europe, our ratification of the European Convention for the Protection of Human Rights, our membership of the European Union, the adoption, by the European Union, of the Charter of Human Rights and the jurisprudence of the Strasbourg Court, have certainly made a big difference in the field of human rights and their protection , as well as the mentality and culture of our people.

Europe, in accordance with the Greek mythology, was a beautiful young girl abducted by Zeus, who transformed himself into a flying bull, in order to seduce her. On her way from the Levant to Crete, she flew over Cyprus. Cyprus, situated at the crossroads of three continents, and different civilizations and religions, has every right to feel that it belongs to Europe, and that it shares its common fundamental values, which are democracy, Rule of law and protection of human rights, notions first developed in Europe, 2500 years ago, by the Ancient Greeks, whom the Greek Cypriots, proudly, consider as their ancestors.

A just and viable federal solution, to the long lasting Cyprus problem, I am sure that will greatly improve the protection of Human Rights and democratic freedoms, for the whole of its people, all over the island, and that it will also help built real bonds of friendship, between Cyprus, Greece and Turkey, in the troubled area of South Eastern Europe and the Eastern Mediterranean.

Thank you for your attention.