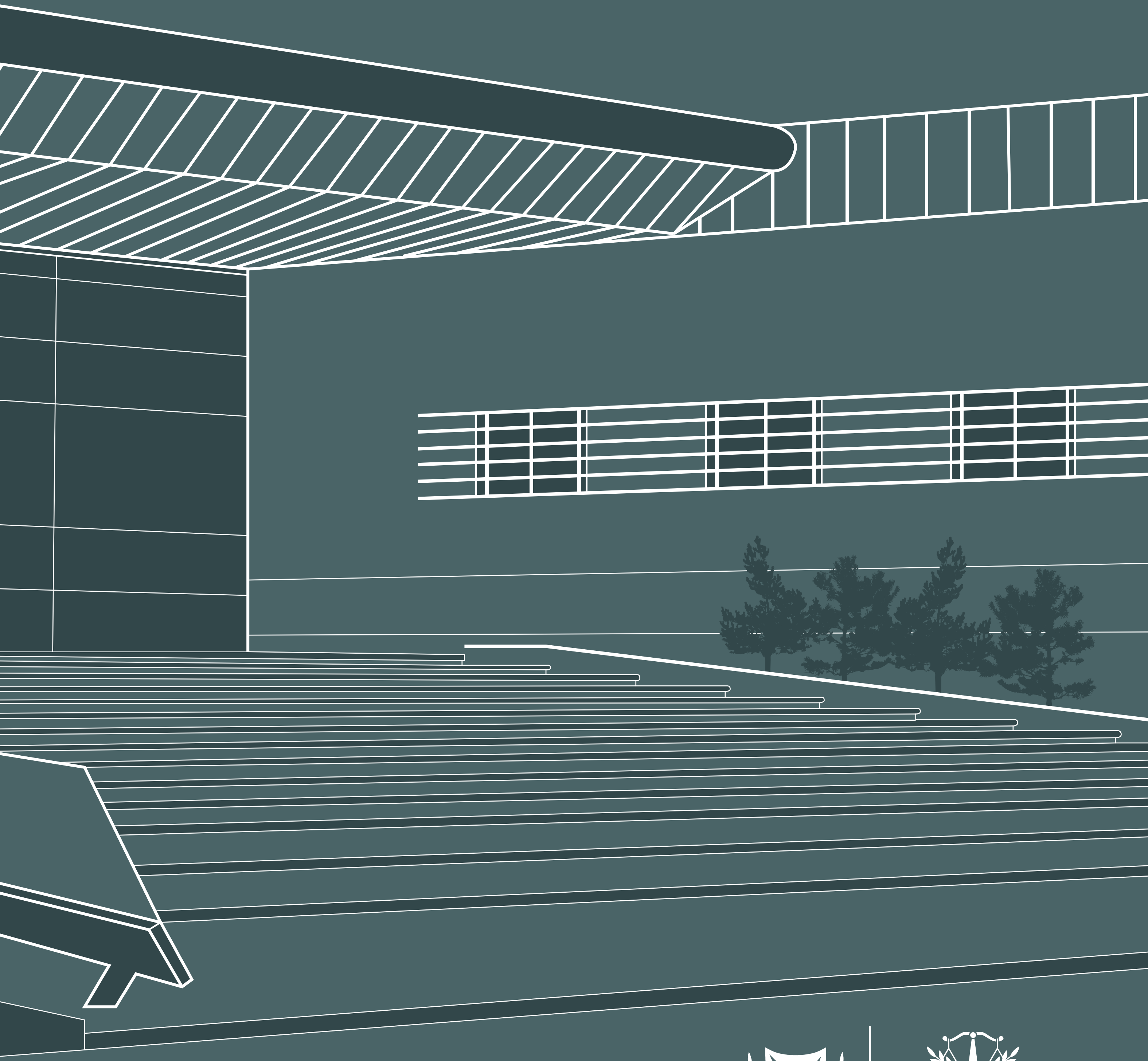
ANNUAL REVIEW
2022



JUDICIAL
SERVICE

" The Annual Review of 2022 offers me, as the last President of the current Supreme Court, the opportunity to pay tribute to all those who have contributed, from 1964 until today, to the fulfilment of the Court's historic mission. "

Antonis R. Liatsos
President of the Supreme Court

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ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ
YÜKSEK MAHKEME

Supreme Court

The Supreme Court is the highest court in the Republic.
It is composed of thirteen judges, of whom one is the President.

MISSION

Ensuring fair and impartial justice, as it is defined by the constitution, the institutional rights and liberties, the Laws and the European and International Conventions.

VISION

The continuous upgrade of the mode of operation of justice for an impartial, effective, fast and responsible resolution of differences.

VALUES

- Impartiality
- Equality / Equity
- Integrity
- Reliability
- Efficiency
- Transparency
- Respect of the citizen
- Objectivity
- Independence

MESSAGE FROM THE

President

Antonis R. Liatsos

President
Supreme Court

The year 2022 was, without a doubt, a pivotal year for Cyprus Justice. Centred around the multileveled reform framework, which was seamlessly and successfully propelled in 2022, the Court reform laws were enacted mid-year, marking another determinative point of reference on our overall reform map. In fact, by virtue of the 17th Constitutional Amendment and the Statutory Amendment of Law 33/1964, brought about by Law 145(I)/2022, the present-day Supreme Court will be divided, as from 1.7.2023, into the Supreme Constitutional Court and the Supreme Court. At the same time, a second instance, Appeal Court will be established.

"Therefore, 2022, marks the last year of the unified Supreme Court."

Therefore, 2022, marks the last year of the unified Supreme Court.

In its almost 60 years of operation, its mission has remained relentlessly unaltered and its work remarkably determinative. While having as its primary aim the safeguarding of justice and its efficient administration, the unified Supreme Court has played a vital role and paved a historic path. As a tribute to this notable Court, allow me to briefly refer to its past case law which demonstrates its significant contribution in securing the survival of the Republic of Cyprus and more. The review of its case law, mainly in the field of its constitutional jurisdiction, beginning with the case of ***The Attorney-General of the Republic v. Mustafa Ibrahim and others of 1964 ((1964) C.L.R. 195)***, documents the turbulent history of our country and the constitutional salvation of the Republic and its institutions. And this is because, the Court in *Ibrahim* unanimously held, by invoking the Law of Necessity and the dire need to save the State, that the unified Supreme Court was in all respects constitutional. Meanwhile, a number of judgments such as of ***The Attorney-General of the Republic v. Costas Constantinou of 2005 ((2005) 1B C.L.R. 1356)***, depict our subsequent European path as formulated by the wider European legal framework and our responsibilities as a Member-State of the European Union.

The Annual Review of 2022 affords me the opportunity, as the last President of the current Supreme Court, to pay tribute to all those who have contributed, from 1964 until today, to the fulfilment of the Court's historic mission. I, therefore, dedicate this prologue, as a minimum recognition of their significant contribution, to all the Justices of this distinguished institution, who have diachronically been an indispensable part of it. Their contribution has been crucial to the evolution of the law, the safeguarding of the constitutional liberties of each and every one of our fellow citizens and to the salvation of the Republic of Cyprus, when the Republic was in danger of collapsing.

The year 2023 marks the new role that the two newly established Supreme Courts are required to take on, at a third instance level. The experience of the past, in all its manifestations, determines, to a large extent, the magnitude of our responsibilities. Looking towards the future with a broad mind, the required determination and armoured with the guarantees of our individual and institutional independence, we ought to respond as in the past, with the same unflinching strength and unwavering consistency to our constitutional duty in upholding and consolidating the fundamental values and freedoms, inherent in a State governed by the rule of law, as is the Republic of Cyprus. Values which brook no concession or compromise.

MESSAGE FROM THE

Chief Registrar

Irini Christodoulou

Chief Registrar*,*
Supreme Court

With the Judicial Reform almost completed, the foundations have been laid in parallel for the introduction of the new Courts' Administration mechanism.

Therefore, I take this Annual Review as an opportunity, to briefly explain the above mechanism and the changes it will introduce.

The final project in the Judicial Reform process is the establishment of the Independent Court Service. Although it is the last project chronologically, it is of the utmost significance, since its introduction aims to improve the efficiency of the operation of the Courts and consequently their continuous functional improvement.

This project is part of the Joint Project on Enhancing the Capacity of the Justice System by an Effective Implementation of the Reform Recommendations and Processes in Cyprus. The process so far has involved domestic and international bodies such as Irish experts from the Institute of Public Administration, as well as experts from the European Commission and the Council of Europe. Many reports have been prepared for the project, with the final one expected to be delivered in the first quarter of 2023. It is worth mentioning that the project is implemented in collaboration with the Council of Europe and the European Commission.

The establishment of the Independent Courts Service is expected to greatly facilitate the operation of the Courts, by modernizing the management and administration of the Registries.

An official visit was paid to Ireland and Strasburg at the end of 2022, by a delegation of the Judicial Service led by the Director of Reform Mr. G. Erotocritou, which was highly successful. During the visit, the individual aspects and purpose of the project were presented, discussed and explained.

On January 18, 2023, a ceremony was held at the Supreme Court during which the European Commission presented the completion of the Independent Courts Service project to the Supreme Court and to representatives of all the stakeholders, such as the Ministry of Justice and Public Order, the Ministry of Finance, the Cyprus Bar Association, the Law Office of the Republic etc.

With the innovative introduction of the "Court Service" within the Judicial Service, changes are being considered regarding the duties of almost all occupational groups that contribute to the operation of the Courts, such as Legal Officers, Registrars, Stenographers, Bailiffs, Messengers / Porters, etc. This transformation of duties aims at promoting the efficiency and productivity of the Judicial Service.

The continuous modernization of the Judicial Service and constant upgrading of the quality of the services provided, form a strategic priority. To implement this, it is important to fully utilize human resources as a basic pillar of the intended reform, by providing appropriate supplies,

"With the Judicial Reform almost completed, in parallel, the foundations for introducing the new Judicial Administration mechanism have been laid."

knowledge, skills and tools. The Officers of the Judicial Service serving under new schemes of service, are expected to be in a position to perform the role they have to play in the new work environment that will be generated by the necessary reforms, in an effective, responsible, and qualitative manner.

The ultimate goal is to improve the services provided to all citizens and society in general, thus stabilizing and increasing the public's trust in the institution of justice.

Supreme Court Judges

ABOVE:
From left to right: *Nicholas Santis, Lena Demetriadou-Andreou, Charis Malachtos, Tefkros Th. Economou, Katerina Stamatiou, Antonis R. Liatsos, Yiasemis N. Yiasemis, Tasia Psara-Miltiadou, Dora Socratous, Ioannis Ioannides, Stalo Hadjiyianni-Christodoulou*

Antonis R. Liatsos

Liatsos, J., was born in Nicosia in 1960. He studied Law at the Law School of Athens University, and practised law at the Kyriacos Michaelides Law Office, for eight years. He was appointed District Judge in 1991, promoted to Senior District Judge in 2000 and then President of District Court in 2004. He acted as President of the Larnaca Permanent Assize Court and as the Administrative President of the Nicosia/Kyrenia District Courts. He is, since September 2013, Justice of the Supreme Court of Cyprus. In 2010 he was elected as President of the Cyprus Judges Association, and served this position until his appointment as Justice of the Supreme Court. As of his appointment as a Justice of the Supreme Court, thus far, he presided over the Permanent, Civil and Criminal Court of Appeal, as well as the Full Bench Court of Appeal and, in some cases, over the Plenary Session of the Supreme Court. He is a member of the Council of the School of Judges, of the Reform Committee, of the Court of Conciliation, and Arbitration of the OSCE, and ad hoc Judge at the European Court of Human Rights. As a representative of the Judiciary, he was a member of the Reformatory Policy Committee, and as a member of the Delegation of the Republic of Cyprus, he attended for many years, at the United Nations´ offices in Vienna, the programme of the United Nations Committee for the Prevention of Crime and Criminal Justice. He is married to Eleni Liatsou, advocate, and he has a son, Alexandros.

Katerina Stamatiou

Katerina Stamatiou was born in Limassol in 1960 and graduated the E Gymnasium Limassol in 1977. She read law in London and was called to the Bar at the Gray's Inn. After her return to Cyprus she practiced law in a law firm in Limassol. She served for one term in the committee of the Limassol Bar Association. In 1993 she was appointed District Judge, in 2000 she was promoted to Senior District Judge and in 2004 she was promoted to District Court President. She served as President of the Assize Court of Paphos and Limassol and Administrative President of the Paphos and Limassol District Courts. She was appointed to the Supreme Court on 16th September 2013. She is married and has one daughter and one son.

Yiasemis N. Yiasemis

Born in Trikomo, Ammochostos, in 1958, where he lived the first years of his life, he later moved to the town of Ammochostos with his family, where he lived until the invasion in 1974. He received his secondary education at the American Academy of Larnaca. After he finished his service in the Cyprus Army, he studied at the University of London from where he attained a Bachelor of Laws (LLB) and a Master of Laws (LLM).

He practised as an advocate from 1985 until 1992, as a member of the Bar Council of Ammochostos and in January 1993 he was appointed as District Judge. As a first instance Judge, he served in all jurisdictions, including that of the Permanent Assize Court and at all levels of the first instant hierarchy. He served for a term as the Vice President of the Cyprus Judges' Association. He was appointed to the Supreme Court of Cyprus in January 2014, where he still serves. He is married and has three children.

Tefkros Th. Economou

Born in Famagusta on 20.10.1961.

He studied Law at the University of Athens.

He practiced Law at Larnaca from 1987 until 1997. On 11.1.1993 he was appointed District Judge and on 19.11.2001 he was appointed Senior District Judge. On 11.2.2008 he was appointed President of District Court serving as President of the Assize Court and as Administrative President of the District Court of Nicosia. On 1.9.2014 he was appointed Judge of the Supreme Court.

He served as Lecturer and Examiner of the Legal Council.

He is married and father of four children.

Tasia Psara-Miltiadou

Tasia Psara-Miltiadou was born in Limassol in 1959. She is the first child of Mikis Psaras from Varosi and Dora Panagidou from Vasa Kilaniou. She graduated from E' High school in Limassol (Lanitio) and she read law at the National and Kapodistrian University of Athens.

Upon her return to Cyprus, she practised as a lawyer for 13 years from 1982 -1995. She was then appointed as a District Judge at the District Court of Paphos and later in the District Court of Limassol.

In 2003, she was promoted to Senior District Judge and in 2008 to President of the Limassol District Court.

She served for two terms as a Senior District Judge of the Assize Court of Paphos and for one term as President of the Assize Court of Limassol.

She has been appointed as a Supreme Court Judge on the 15th of January 2015. She is married and has two daughters. Apart from law, she loves literature, history.

Charis Malachtos

Charis Malachtos was born in Limassol-Cyprus in October 1964.

He studied law at the University College London and he was awarded the degree of Bachelor of Laws (LLB). He is also a Barrister of the Lincoln's Inn.

He practised law from 1989 until his appointment as Acting District Judge on the 9th of January 1995.

He was appointed District Judge on the 9th of January 1996. He was promoted to Senior District Judge on the 10th of September 2003 and to President, District Court on the 2nd of April 2010.

He served as President of the Paphos Permanent Assize Court and the Limassol Permanent Assize Court and as Administrative President of the District Court of Larnaca-Famagusta and of the District Court of Limassol.

He was appointed Judge of the Supreme Court on the 15th of October 2019.

He speaks Greek and English.

He is married and the father of two children.

Dora Socratous

Dora Socratous was born in Limassol and she was the first child of Christodoulos and Tereza Socratous, from Potamiou, Limassol.

She studied law at the Aristoteleion University of Thessaloniki and practiced law for 13 years.

On the 20th of November 1995, she was appointed District Judge, first the District Court of Nicosia and later at other District Courts.

In February 2004, she was promoted to Senior District Judge and on 20/6/2011 to President District Court.

She served as President of the Assize Court of Paphos and as Administrative President of the District Court of Paphos from 2015 until the 7th of December, 2020 when she was appointed Judge of the Supreme Court.

She is married with Evangelos Socratous and the mother of two children.

Lena Demetriadou-Andreou

She is married and has one daughter.

Academic Qualifications:
Holder of the following degrees and qualifications:
- L.L.B. Honors awarded by Essex University, U.K.
- L.L.M. Honors on Corporate Law awarded by Cambridge University, U.K.
- The Professional title of Barrister at Law of Gray's Inn.

Brief Professional Background:
- From 1989 until 1990 she was practicing law in the private sector.
- From 1990 until November 1995 she was holding the position of Counsel for the Republic in the Legal Service of the Republic of Cyprus.
- She was appointed in the Judicial Service as acting District Judge on November 1995 and as a District Judge on November 1996. Since that date until February 2004 she was holding the position of District Judge.
- On February 2004 she was promoted to the position of Senior District Judge.
- On October 2012 she was promoted to the position of the President of District Court.
- She served as President of the Assize Court of Nicosia from 25/4/2013 - 9/9/2016.
- She served as Administrative President of the District Court of Larnaca - Famagusta from 6/2/2017 - 9/9/2019 and as Administrative President of the District Court of Nicosia from 10/9/2019 - 6/12/2020.
- Since 2001 until 2015 she was an Examiner on the subject of Criminal Procedure, which is one of the subjects in the examinations that are held by the Cyprus Legal Council for acquiring the right to practice as a lawyer in the Republic of Cyprus.
- Since October 2018 until today she is a Trainer in the Group of Trainers of the National School of Judges.
- Since October 2020 she is a member of the Permanent Monitoring Committee for Judicial Conduct and Ethics.
- On 7/12/2020 she was appointed Justice of the Supreme Court.

Ioannis Ioannides

Ioannis Ioannides was born in Nicosia - Cyprus in 1963.

He graduated from the Pancyprian Gymnasium and of the Law School of the University of Athens. He practiced Law at Nicosia from 1988. On the 20.11.1995 he was appointed District Judge serving at the District Court of Nicosia. On 15.2.2004 he was appointed Senior District Judge. On 12.11.2012 he was appointed President of District Court. He served as President of the Limassol Permanent Assize Court and as Administrative President of the District Court of Nicosia and of the District Court of Larnaca.

On 7.12.2020 he was appointed Judge of the Supreme Court.

Nicholas Santis

Nicholas Santis was born in Famagusta Cyprus on 5.9.1962. He graduated from Acropolis A' Gymnasium in 1980. He studied Jurisprudence at the University of Oxford and was awarded a Bachelor of Arts (BA Hons) in Jurisprudence and an MA in Jurisprudence (by conversion). He also holds a BA in Political Science from Boston University, and a PhD in Law from the University of Edinburgh, School of Law. He is currently a doctoral candidate (DPhil) at the University of Oxford, School of Law. During his academic studies he received various distinctions and awards. He was appointed Justice of the Supreme Court in December 2020. He served as Acting District Court Judge (1995-1996), District Court Judge (1996-2004), Senior District Court Judge (2004-2013), and President, District Court (2013-2020). He served as President of the Larnaca-Famagusta Assize Court (2019-2020 and 2013-2015), as a Member of the of the Assize Court of Nicosia (2009-2013) and of the Assize Court of Limassol-Paphos (2001-2013). As a lawyer he practiced in a wide range of legal matters as a member of the Famagusta Bar Association. He participated as a member of the Committee on Judicial Reform, and the Rules Committee. He was a Trainer Judge in the Cyprus School for Judicial Training, and President elect of the Cyprus Judges Association for three consecutive terms until his appointment as Supreme Court Justice (2013-2020). He is a substitute member of the Venice Commission, and an ad hoc member of the European Court of Human Rights (ECHR).

He was a member of the Cyprus Board of Bar Examiners, and a Lecturer and Examiner on Criminal Law (for approximately fifteen years), and Evidence Law (for approximately four concurrent years). He has taught (pro bono) Criminal Investigation Law as an Adjunct Lecturer at the University of Cyprus Law School. He was a Member of the Cyprus Crime Prevention Council for seven years, representing therein the Cypriot Judiciary by permission and selection of the Supreme Court of Cyprus. He successfully completed assigned chairmanship duties in various Working Groups during the Cyprus Presidency of the Council of the European Union (2012). He gave lectures in local universities and international legal conferences, and has written legal articles which have been published in Cypriot and international journals. He is the co-author (with the now deceased Takis Eliades, ex-Justice of the Supreme Court) of a book on evidence law, titled The Law of Evidence: Procedural and Substantive Aspects (First Edition: 2014, Second Edition: 2016). Once, a middle - and long-distance runner for GSE (Evagoras Athletic Association of Famagusta), he succeeded noteworthy results in pancyprian and panhellenic games. In 2004 he received a commendation by the Cyprus Amateur Athletic Association (CAAA), together with other ex-athletes, for his contribution to Cyprus athletics (track and field). He is married, and a father of three children.

Stalo Hadjiyianni-Christodoulou

Stalo Hadjiyianni was born in Nicosia in 1965. She attended the National and Kapodistrian School of Law, Athens and went on to practice law for 3 years. She was then employed at the Legal Service of the Bank of Cyprus and subsequently at the Law Office of the Republic of Cyprus. She was appointed as District Judge on 15/06/1996 and as a Senior District Judge on 01/09/2007. On 16/09/2013 she was appointed as President District Judge. She served as the President of the Permanent Assize Court of Larnaca – Famagusta from 10/09/2015 until 09/09/2017. She also served as the Administrative President of the District Court of Limassol from 10/09/2019 and as the Administrative President of the District Court of Nicosia – Keryneia from 10/09/2021. On 17/05/2022 she was appointed as member of the Supreme Court of Cyprus. She is married and a mother of 3.

During 2022 President Persefoni Panayi and Justice Androulla Pouyiouros retired and Justice Antonis Liatsos was appointed as the new President of the Supreme Court.

BELOW:
From left to right (above): *Nicholas Santis, Ioannis Ioannides, Dora Socratous, Charis Malachtos, Lena Demetriadou-Andreou, Stalo Hadjiyianni-Christodoulou*
From left to right (below): *Tefkros Th. Economou, Katerina Stamatiou, Antonis R. Liatsos, Yiasemis N. Yiasemis, Tasia Psara-Miltiadou*

Cyprus Judicial Training School

"Judicial training is considered one of the most important tools for improving the quality of justice. The European Union places even more emphasis on the importance of training of European Judges."

The Cyprus Judicial Training School was officially established on the 14th of August 2020, following the adoption of Law 101(I)/2020 which provides for its establishment and operation. However, the first training programs were conducted at the beginning of October 2018 by the Training Office which functioned as a forerunner of the Judicial Training School, with the Director Mr. George Erotocritou having, amongst other things, the responsibility of implementing the decision of the Supreme Court concerning the establishment of the School.

The main objectives set by the Cyprus Judicial Training School since its establishment are, primarily to promote and update training programs that respond to Judges' current needs, and include amongst others, training programs for the development of judicial skills, case management skills and the professional development for Judges in general.

Furthermore, one of the School's principal objectives is to protect and promote the basic value of judicial independence, judicial ethics and conduct, within the framework of judicial training.

In order to achieve the goals set at national and European level, the Cyprus Judicial Training School, taking into account the constant changes in the legal framework, prepares a variety of training programs on an annual basis.

In addition to training programs designed for Judges, the Cyprus Judicial Training School also undertakes the organization of seminars for legal officers, registrars and court staff in general.

The Judicial Training School aims at developing good relations and cooperation with universities, organizations or persons that can contribute to the achievement of its objectives. It is also necessary to actively participate in European and international networks, organizations or bodies that promote respective objectives, as well as promoting issues of common interest.

The School is based on the model of the Judicial College of England and is supervised by the School's Board, whose Members are appointed by the President of the Supreme Court.

The President of the Supreme Court also appoints the Director of the Judicial Training School, following consultation with the other Members of the Supreme Court. The Director of the School must be a person who either serves or has recently retired from the judiciary.

RIGHT:
Poulias Building, Judicial Training School

The Director of the Judicial Training School undertakes a complex and demanding task, with his responsibilities and competencies not being limited exclusively to the operation and representation of the School.

In particular, he is responsible for the preparation and implementation of the School's annual legal training program, as well as the preparation of training material to be disseminated to all Judges.

Furthermore, the Director of the School is responsible for identifying any training needs and for gathering recent legislation and case law about which Judges should be informed through necessary training.

Ensuring good cooperation with other organizations and bodies is one of the main duties of the School's Director. In particular, the Director must collaborate, participate and promote the work of the European Judicial Training Network (EJTN). It is also necessary to secure good cooperation with the executive power, the public service, the Law Office of the Republic, the academic community and organizations dealing with matters of justice, as well as with various persons and bodies or organizations, with the aim of providing Judges with information that will assist them in their work.

It is also important that the School continues to network so that it can continue to develop. The Director is responsible for the promotion of training programs and the cooperation with respective schools, professional organizations, training providers at European or international level and other countries. Moreover, participation in programs funded by the European Union or other international organizations are actions that the Director must promote, thus creating prospects for further development of the Judicial Training School.

The accession of the Republic of Cyprus to the European Union has created additional needs regarding judicial training. Amongst other things, the Director of the School is responsible for the organization of training programs, aiming at improving the knowledge and understanding of EU primary and secondary legislation and raising awareness of the legal systems and the law of other member states of the European Union.

LEFT:
EJTN European Seminar "Introduction to the concept of training Judgecraft" that took place at the Supreme Court on the 29th and 30th of September with the participation of Judges from 10 countries.

BELOW:
George Erotocritou, Director of the Judicial Training School with Lady Dorrian, Lord Justice Clerk, Court of Session of Scotland, during her visit to Cyprus as key note speaker at the Training Seminar "Children-Vulnerable Witnesses" on 17.05.2022

LEFT:
Training Seminar for Judges on the new Civil Procedure Rules, 12.10.2022

In 2022 the Judicial Training School organised a total of ten Seminars, three of which were in collaboration with European organizations, namely the Slynn Foundation in the UK, the Academy of European Law (ERA) and the European Judicial Training Network (EJTN). The School also collaborated with distinguished judges such as Lady Dorrian, Lord Justice Clerk of the Court of Session of Scotland. Two Seminars were organized as part of the initial training of new judges and seven as part of the continuous training of both district court judges and judges of special jurisdiction. A great deal of emphasis was placed on the training programme for the new Civil Procedure Rules, which will come into force in September 2023. Four full-day seminars and one seminar specifically for trainers were organised to ensure that all judges received high quality training. In developing the training material for the new Rules, the School collaborated with Mr. Nic Madge, a former Judge and trainer at the Judicial College of England and Wales.

In 2022, 114 Judges attended the Seminars on the new Rules of Civil Procedure, while 271 attendances by judges were recorded for the remaining Seminars, indicating that most Judges had attended more than two Seminars in 2022.

It is imperative that the Cyprus Judicial Training School functions properly and receives continuous support, particularly during this period, as the training needs of both Judges and court staff will increase due to the unprecedented reforms that will shortly be implemented in the Judicial Service.

Cyprus Judicial Training School

Reform Department

George Erotocritou
Former Supreme Court Judge,
Director of Reform

The Reform Department was established by the Supreme Court in 2017 at the instigation of the European Commission, with the appointment of Mr. G Erotocritou as Director of Reform and Training, to manage the Reform processes and especially the projects funded by the European Commission and subsequently by the Council of Europe, to whom we are particularly grateful for their continued support.

Studies of approximately 15 Projects have been completed, to date eight of which have been funded by DG Reform of the European Commission and the rest co-funded by the European Commission and the Council of Europe.

Overall, the Projects undertaken by the Supreme Court in the context of the Reform process include, the establishment of an independent Judicial Training School, the General Reform of the Courts ("The Functional Review of the Courts System of Cyprus"), the review of the Civil Procedure Rules by the Dyson Committee and their subsequent translation into Greek, the establishment of "Objective Criteria for the Recruitment and Promotion of Judges", the introduction of "Digital Audio Recording of Court Proceedings", the division of the Supreme Court, the establishment of an Advisory Judicial Council, the creation of a Second Instance Court of Appeal, the creation of a Commercial Court and an Admiralty Court, the establishment of the Administrative Court for International Protection, the introduction of an Electronic Justice System (e-justice), the reduction of backlog cases, the automation of insolvency cases and the creation of an Independent Courts Service for the administration of the Courts, which was also the last of the Projects, the Report for which was completed in January 2023.

Several of the Projects have already been implemented, while the implementation of others is still pending. It is a fact that the rate of implementation of the Projects is not as expected. The relatively slow pace is mainly due to the bureaucratic procedures that exist.

For this reason, it was deemed necessary to refrain from undertaking new Projects, in order to give time for the implementation of the Projects that are still

LEFT:
George Erotocritou,
Former Supreme Court Judge,
Director of Reform

pending. Therefore, upon the expiration of the Director's mandate, the Reform Department has, as of January 2023 been integrated with the Office of the Chief Registrar, which will undertake the monitoring and the implementation of all the Reform Projects that are still pending.

Most of the Projects that have not yet been implemented have now been included in the Recovery and Resilience Plan and it is therefore expected that the implementation processes will be accelerated in the future.

Perhaps more should be said about the ambitious Project to create an Independent Service for the Administration of the Courts, which began in 2021, following a recommendation by Irish Experts, and was completed in January 2023 with the official closing event in Cyprus.

The Project, which was co-funded by DG Reform of the European Commission and the Council of Europe, is considered one of the most important Reform Projects, as it is expected to place the administration of the Courts on a sounder and more efficient basis.

The implementation of the Project is expected to last 2-3 years. The recommendation of the Experts is for the establishment by law of an Independent Courts Service that will completely take over the administration of the Courts. The Courts Service will be based on the models of other European countries, such as England and Wales and Ireland. It will be governed by a Board, on which the Judicial Service will have a majority. The Board will comprise of a President, who will be the President of the Supreme Court and who will also guarantee its integrity, four Judges from the two Supreme Courts, Judges representing the Courts of First Instance, the Attorney General of the Republic, a representative of the Cyprus Bar Association, and representatives of the Government from the Ministry of Finance and the Ministry of Justice.

The main objective of the creation of the Independent Courts Service is to free Judges, mainly those of the Supreme Court, from the responsibility of the administration of the Courts, so that they can completely devote their time to their judicial duties.

The administration of the Courts will be undertaken by experts in the administration of public services. The Chief Executive Officer of the Courts Service will be at the top of the pyramid and below him/her two other senior managers, one being the Head of Court Operations and the other Head of Courts Administration, (such as human resources, technology, IT, finance, budget, building facilities, equipment and others). Risk management will be under the responsibility of the CEO.

The relevant Report of the Experts was released in early 2023 and contains all the necessary details and timelines for the implementation of the Project.

It is evident that, once all pending Projects are implemented, there will be a significant change in the field of justice and there will be a noticeable improvement in the efficiency of the Courts and the quality of justice in general.

"Up until today, studies of approximately 15 Projects have been completed, eight of which have been funded by DG Reform of the European Commission and the rest co-funded by the European Commission and the Council of Europe."

The two Projects that will contribute the most to improving the image of the Courts and the acceleration of justice are the new Civil Procedure Rules which will come into force in September 2023, and the recommendation for the establishment of the Independent Courts Service, which is expected to be implemented by 2024.

It has already been mentioned repeatedly, that a change of culture is needed in order for reformative changes to achieve their purpose. In moving towards this direction, it is important that all stakeholders contribute, particularly Judges and Lawyers.

ABOVE:
From left to right: *George Erotocritou, Director of Reform, Nathalie Berger, Director for Support to Member States' Reforms, DG REFORM, European Commission, Ioannis Hadjiyiannis, Head of Unit, DG REFORM, European Commission during Ms Berger's visit to the Supreme Court on 23.2.2022*

Statistics

Judges

COURTS			
SUPREME COURT	6	5	11
ADMINISTRATIVE COURT	2	5	7
INTERNATIONAL PROTECTION ADMINISTRATIVE COURT	3	7	10
DISTRICT COURTS	36	42	78
ASSIZE COURTS	12	6	18
FAMILY COURTS	2	7	9
RENT CONTROL COURTS	1	2	3
INDUSTRIAL DISPUTES TRIBUNALS	1	2	3
MILITARY COURT	1	0	1
TOTAL	64	76	140

Court Staff

CHIEF REGISTRAR	0	1	1
ASSISTANT CHIEF REGISTRAR	0	1	1
REGISTRARS	8	31	39
LEGAL ASSISTANTS	2	9	11
ADMINISTRATIVE OFFICERS	4	7	11
STENOGRAPHERS	0	101	101
BAILIFFS	34	12	46
INTERPRETERS	1	2	3
SECRETARIAL STAFF	22	125	147
COURT MESSENGERS	104	4	108
MILITARY ASSISTANT	0	1	1
TOTAL	175	294	469

Supreme Courts Decisions

561

TOTAL NUMBER OF SUPREME COURTS DECISIONS (ALL JURISDICTIONS)

Number	Category
47	REVISIONAL APPEALS
33	APPEALS FROM ADMINISTRATIVE COURT DECISIONS
5	APPEALS FROM INTERNATIONAL PROTECTION ADMINISTRATIVE COURT
6	REFERENCES UNDER ARTICLE 140 OF THE CONSTITUTION
3	RECOURSES UNDER ARTICLE 139 OF THE CONSTITUTION
37	APPEALS ON FAMILY COURT DECISIONS
118	CIVIL APPEALS
132	CRIMINAL APPEALS
6	PREROGATIVE ORDERS (ON APPEAL)
151	PREROGATIVE ORDERS (FIRST INSTANCE)
8	ADMIRALTY COURT PROCEEDINGS (FIRST INSTANCE)
1	ADMIRALTY COURT APPEALS
1	DISCIPLINARY APPEALS
10	LEGAL AID APPLICATIONS
2	ELECTION APPLICATIONS
1	CIVIL APPLICATIONS

Backlog Management

Stelios Nathanael
Former President
Supreme Court,
Backlog Management Project Manager

It rests upon the judiciary, as well as the state authorities, to effectively manage backlog cases, which springs up as a major problem when talking about judicial efficacy. As a member of the European Union, the state has undertaken the task of reducing backlog cases within a certain time framework. The Action Plan, which was set up to meet this goal, provides that by 2026 there should be a reduction of at least 40% of backlog cases.

The realization and coordination of backlog management necessitates the cooperation of many actors, especially the Ministry of Finance, the Deputy Ministry of Research, Innovation and Digital Policy and the Cyprus Bar Association. The Supreme Court, the competent body under the constitution, is, of course, the major responsible body for the project.

According to European Union standards, a «backlog case» is any case pending for more than two years from the date of filing.

The Backlog Manager, having in mind previous proposals and reports on the subject and recognizing that backlog management is multidimensional, as well as complex, submitted a number of suggestions to the Supreme Court, not only for the proper management of backlog cases, but also for a wider reorganization of the way the court system functions, striving towards a more effective adjudicating system that will handle cases within a specific time framework also keeping in line with all basic notions of a fair trial. The goal is to manage backlog cases together with all new cases filed, avoiding the recurrence of a future backlog.

Two essential parameters of the backlog project are good planning from the outset and procedural discipline. In accordance with the Action Plan, a complete physical inventory of all the cases that are still pending between 2014-2018, has taken place so that all actors in the judicial system now know in detail the exact number of pending cases, their nature, the jurisdiction within which each one falls and the stage they are at. The physical count showed a total number of 16.723 still pending in the District Courts. The Supreme Court approved the suggestion of enacting special procedural rules for their most effective furtherance. Moreover, it has been proposed that a physical count and inventory of all cases that have been filed between 2019 up to June 2021, also takes place, so that the exact total number of all cases pending prior to the introduction of electronic filing, is known. It is, however, indisputable that the problem faced is a major one, since between 2019 and July 2021 a total number of 34.730 cases were filed,

"The goal is to manage backlog cases together with all new cases filed, avoiding in future the recurrence of backlog."

while since the introduction of electronic filing in April 2021 until December 2022, another 8.326 have been added.

The Supreme Court has also approved other suggestions made by the Backlog Manager, which relate to the restructuring of the Assize Court System, the reduction of the number of cases that are now placed before the other Criminal Courts, by applying and expanding the notion of the administrative fine for cases of minor importance, the introduction of remote or video trials to cover, at least at the initial stages, certain types of cases, the re-examination of the right to file private criminal cases at large, and the setting up of a clear pre-trial stage before a case is tried on its substance. The idea is that this pre-trial stage should not last more than a year after filing a case, while the trial on the substance should take place within a time span of 9-12 months. Thus every case filed will be resolved and out of the court system the latest within 2 years, so that in the future there will be no further backlog. In order to achieve this, the setting up of a new class of judges, to deal only with the pre-trial stage, has been suggested and, in principle, accepted. Other suggestions relate to the introduction of compulsory ADR, prior to the filing of a case, at least for certain cases, as well as enacting special and simple rules of litigation relating to small claims.

The Supreme Court has also approved a change in the way District Courts function in civil cases, so that not only backlog cases are tried, but newly filed cases also have a fair chance of being tried. The proposed framework takes a holistic approach for the effective adjudication of cases irrespective of the year of filing. At the end of the day early adjudication is to the benefit of litigants and society at large.

Furthermore, the Supreme Court also accepted the idea of appointing a number of additional judges on a two-year temporary basis from the ranks of retired lawyers, as a method of speeding up the trial of backlog cases.

Lastly, as regards the Supreme Court itself, the restructuring of the judiciary, made possible only recently, when the House of Representatives passed the relevant laws, will by itself lead to a better management of backlog appeal cases, while the setting up of a new 16-member Appeal Court will greatly help in speeding up the trial of appeal cases, old and new.

Anonymisation and Publication of Judicial Decisions

Tefkros Th. Economou
Justice Supreme Court of Cyprus,
Head of the Committee on Judicial Deontology Monitoring,
Assigned Chairman of the Judicial Service's Supervisory Committee on the Protection of Personal Data

Anonymisation (Pseudonymisation) and publication of judicial decisions [regulatory framework, process of anonymisation (pseudonymisation), process of publication of judicial decisions, restrictions on publication] - Case law database(s)

Admittedly, this particular field of discussion is, to a certain degree, complex and compound. While the process of anonymisation of court judgments is technical in nature, its objective, the protection of personal data, is, in fact, fundamental. We, therefore, firmly acknowledge that the protection of personal data is closely interlinked with the protection of the fundamental rights of private and family life, which are safeguarded by our Constitution and the European Convention.

Nonetheless, in striking a balance between all rights and interests involved, the principle of open justice must not be overlooked. Open justice is, of course, known to civil law jurisdictions, to the Court of Justice of the European Union as well as to the European Court of Human Rights' jurisprudence. In Cyprus, this cardinal, common law principle, still remains in full vigour, alongside the constitutional principle that 'justice must be administered in public' (Article 30.2 of the Constitution of the Republic).

1. Prior to the GDPR:

Before embarking on a thorough, chronological analysis of the steps taken with the coming into force of the General Data Protection Regulation («GDPR») and the subsequent issuance of the Supreme Court's first Circular/Practice Direction («Circular»), let me briefly refer to the previous, prevailing situation on the matter.

In fact, prior to the coming into force of the GDPR, no instrument was in place which set out the applicable legal framework. Hence, court decisions were not anonymised, save but in exceptional cases where minors or victims of sexual crime or sensitive data were involved. In such cases, the proceedings were held, as a rule, in camera and consequently, their reporting and publication was restricted.

"Open justice is, of course, known to civil law jurisdictions, to the Court of Justice of the European Union as well as to the European Court of Human Rights' jurisprudence."

2. Post GDPR:

The Supreme Court Circular of 19th of July 2018

With the coming into force of the GDPR on 25th May 2018, the Supreme Court of Cyprus, proceeded, on 19th of July 2018, to issue a regulatory Circular (Circular no. 125). This particular Circular, which was later on repealed for reasons I will explain further down, brought about a radical change since it made anonymisation the rule rather than the exception. Hence, all court decisions were universally anonymised.

Main areas of concern leading to the Supreme Court's review

After approximately four years of application, the Supreme Court revisited the matter, for reasons set out below:

- First, despite obscuring the personal data by replacing the first name of the parties and other persons with the symbols XXX and maintaining only the surnames, the objective was often, not achieved since the parties involved were "photographed" by the remaining information included in the text. At the same time, by making reference to the surname alone, suspicion was cast on the whole family as well as on all other persons with the same family surname, especially, when rare surnames were involved.

- Secondly, by non-disclosing the first names of convicted persons in criminal cases, in a universal and blanket manner, a type of protection was provided to them. Meanwhile, other persons living in the same area could easily be suspected as the perpetrator, since Cyprus is a small country.

- Thirdly, the extensive use of XXX adversely affected the readability and comprehensibility of the text (a practice which goes against the conclusions of the *Council and the representatives of the Governments of the Member States meeting within the Council on Best Practices regarding the Online Publication of Court Decisions (2018/C 362/02).*

- Fourthly, the application of Circular no. 125 gave rise to practical problems. Legal professionals faced difficulties in their search for judicial precedents. Often they were even unable to locate applicable case law, which is a source of law in common law jurisdictions. It is of course the case that, the common law principle of stare decisis remains in vigour even after the GDPR came into force. Cardinal legal principles in Cyprus are well-known and referred to, with the litigants' names.

- Lastly, there was an absence of guidance as to who, amongst the personnel, was responsible for undertaking the task of anonymisation. At the same time, apart from the Supreme Court, there was a noticeable lack of common practice. Therefore, the task of anonymisation was in some courts performed by the judges and in others by their stenographers or by the librarian of the court or even by a private company/legal portal responsible for the online publication of Judgments.

The new, repealing Supreme Court Circular of 22nd of June 2022

The above concerns were thoroughly considered by the Supreme Court and following a study of the anonymisation processes adopted in other common law EU countries such as Ireland and Malta, the Supreme Court issued a second Circular (Circular no. 142) on the 2nd of June 2022 repealing its previous one.

The new, repealing Circular aims at:

- resolving the practical and other problems mentioned above and
- striking a balance between open justice and the need to protect the rights of individuals who may be harmed by disclosure of their personal data, where, of course, the interests of justice require some qualification of the principle of open justice.

Accordingly, the 2022 Circular restores the concept of open justice in the sense that judgments are to be published with reference to the full name of the parties or witnesses save in exceptional cases. Meanwhile the exceptions have been widened allowing a stricter and more robust approach towards anonymisation.

The role of judges under the new Circular:

The main characteristic of the new Circular is that it places the judge in the epicentre of anonymisation. By virtue of its provisions "*When writing a judgment, judges must ensure that the following exceptions are complied with in order to achieve the necessary anonymisation to the greatest extent.*" In our view, the competent judge who is to deliver the judgment, is in a better position to anonymise his or her judgment, while preserving, at the same time, its structure and coherence.

The new Circular follows the ex-ante approach which we believe is more suitable for Cyprus. Although we had some concerns that the ex-ante approach might be burdensome for judges, the feedback we received demonstrates the contrary. Judges have in fact given us positive feedback, stressing that the ex-ante approach has facilitated the drafting stage of the judgments, since they are now able to concentrate on what is really necessary, avoiding unimportant details.

Finally, the Supreme Court has proceeded with the creation of a Special Committee composed of three judges (1 Supreme Court Justice and 2 District Court Judges), for the implementation of the 2022 Circular.

ABOVE:
Tefkros Th. Economou,
Justice Supreme Court of Cyprus, Head of the Committee on Judicial Deontology Monitoring, Assigned Chairman of the Judicial Service's Supervisory Committee on the Protection of Personal Data

The rule of law in the Republic of Cyprus in the light of the Jurisprudence of the CJEU

Yiasemis N. Yiasemis
Justice Supreme Court of Cyprus

The celebration of the establishment 70 years ago, on July 23, 1952, of what is today known as the Court of Justice of the European Union, unfortunately, coincided with what is sadly happening on Europe's eastern borders. The situation that has been created and persists, poses serious threats for the Union and its Member States. This has accentuated the paramount importance of the preservation of the Union, as a vibrant supranational Organization, based on the principles of Democracy, Freedom and the Rule of Law, aiming to ensure Security, Prosperity and Justice for the People of its Member States, as well as for the rest of the World.

The history that led to the creation of the European Union is well known: the devastation, for a second time in the first half of the 20th century, which was experienced not only by the peoples of Europe, but the whole world, given that the war had a global impact. Appropriately so, distinguished European politicians of the post-war era cogitated on the need to avoid similar situations, by providing a "mechanism" to prevent the recurrence of similar grief and anguish. This was attained by pooling coal and steel production, within an agreed framework of organisation which if left uncontrolled would enable armament and war. Thus, the European Coal and Steel Community, also known as the ECSC, was established, being the outcome of the well-known Schuman Declaration of May 9, 1950.

The ECSC was an innovator in the field of International Law. At the same time, it envisioned the establishment of a Court of Justice, which constitutes a milestone in the development of the Law of the European Union. According to Article 31 thereof, the Court was charged with the duty, when interpreting the Treaty and the Rules established for its implementation, to ensure the rule of law. This was the beginning of the creation of a supranational organization, based, among other things, on the inherent, universal principles and values that define the Rule of Law. Most important was the fact that a Court of Justice, the Court of the European Union, in applying the above principles and values, would have a primary role in ensuring its consistency and functioning, as proved to be the case.

The Court went beyond this remit and its decisions acquired, also through the Treaties, legislative force. From early on it was declared in the ***Van Gend en Loos case, ECJ - 26/62, 5.2.1963***, that, "... *The community constitutes a new legal order of international law for the benefit of which*

[1]. Summary of the speech given by Mr. Yiasemis Yasemis, Hon Justice of the Supreme Court of Cyprus during the event held on November 1, 2022 at the Supreme Court on the occasion of the celebration of the 70th anniversary of the Court of Justice of the European Union.

RIGHT:
Yiasemis N. Yiasemis
Justice Supreme Court of Cyprus

the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only member states but also their nationals". The following year, the Court, in its decision in ***Costa v. Enel, EC - 6/64, 15.7.1964***, manifested the unifying bond between the Union and its Member States in even clearer and stronger terms. It declared that, "*By contrast with ordinary international treaties, the EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the Member States and which their courts are bound to apply*". Ever since, the development of the EU legal order is based on a different logic than that of the international legal order. The Court, as the guardian of the due observance of European law, plays a primary role in the interpretation and, generally, the consolidation and development of the European Acquis, imposing its respect in all Member States and on their nationals.

Fundamental rights and freedoms are an integral part of European Law. The Court, in 1969, declared in ***Stauder v. City of Ulm, C-29/1969, 12.11.1969***, that, "*... fundamental human rights are enshrined in the general principles of Community law and protected by the Court*." At the same time, it recognized constitutional traditions common to the Member States as a source of inspiration for the protection of fundamental rights by the EU, a reference that was adopted and contained in Article 6 paragraph 3 of the **Treaty on European Union**.

Of course, we now also have the Charter of Fundamental Rights of the European Union. It became legally binding on the coming into force of the Treaty of Lisbon on 1 December 2009. It covers the whole field of civil, political, economic and social rights enjoyed by EU citizens. Its aim is to make fundamental rights more easily accessible by ratifying an additional level of protection of fundamental rights for the citizens of the European Union. The Charter is not only binding on the EU institutions. It is similarly directly enforceable in Member States when they apply EU law. As an integral part of the primary law of the Republic of Cyprus, its courts are, inevitably, bound by its provisions when adjudicating cases that concern rights and freedoms, stemming from European Union law, which are in issue.

To this end, a major contributor is the well-established principle of the primacy (also referred to as 'precedence' or 'supremacy') of EU law. According to this principle, European law takes precedence over conflicting national laws of EU member states, even over their Constitution. The application of the doctrine of supremacy of EU law constitutes a mandatory obligation, not only for national governments, but also for national courts of EU Member States. Each Member State of the European Union must respect and harmonize its national law with EU Law, as European law ranks as a higher source of law, in the hierarchy, than national laws.

This principle was confirmed, inter alia, in the ***Simmenthal cases, ECJ 106/77, 9.3.1978 and Factortame, C-213/89, 19.6.1990***.

The Full Plenary of the Supreme Court accepted the above principle in its judgement ***Attorney General v. Konstantinou (2005) 1 CLR. 1356***, which led to the 5th amendment of the Constitution in 2006, by Law 127(I)/2006. The new Article 1(A) which was added to the Constitution of the Republic of Cyprus, provides in essence that no provision of the Constitution shall be deemed to annul laws enacted, acts done or measures taken by the Republic which become necessary by reason of its obligations as a member state of the European Union. In this way, supremacy is given to EU Law, even over the Constitution. The Member States of the Union, therefore, including, of course, the Republic of Cyprus, cannot apply a national rule that contravenes European law, as mentioned in the ***Deutsche Umwelthilfe eV case. v. Freistaat Bayern C-752/2018, 19.12.2019***.

Compliance with European Union law and the Principle of Supremacy denotes respect for the Rule of Law. Undoubtedly, the courts of the Republic of Cyprus play an important role in ensuring the effective application of European Union law within the national legal order. One of the main ways to achieve this is the Procedure for Preliminary Rulings, on the interpretation and meaning of European Union law or the validity or interpretation of acts of the European institutions. As the Court clarified, in its jurisprudence and recommendations, regarding the preliminary reference mechanism, the active participation of the national court is required for the submission of a preliminary reference under Article 267 of the TFEU.

The jurisprudence of the Supreme Court on preliminary references has been summarized in several of its judgments, for instance in ***Cypra Ltd v. Republic (2013) 3 CLR. 305*** and ***Kristian Bekefi and Others v. Republic (2015) 3CLR 437***. The procedure for the submission of a preliminary reference is regulated by the ***Preliminary Reference to the Court of Justice of the European Communities Procedural Regulation (No. 1) of 2008***. This stipulates that a national court may, at any stage of proceedings, issue an order for the submission of a preliminary reference, ex proprio motu or on the application of a party.

The ongoing modernization and improvement of the Court system in the Republic of Cyprus, with the help of the European Commission, will undeniably highlight even more the values on which the European Union is founded and the importance of the constant development of the jurisprudence of the European Court, in regard to fundamental principles of the Rule of Law, which constitutes a cornerstone of modern democracy.

ABOVE:
Celebrating 70 years of the Court of Justice of the European Union, November 1, 2022, Supreme Court

Digital Justice – Prospects and Challenges

Andreas Y. Tserkezos
Registrar Supreme Court of Cyprus, Office of the President of the Supreme Court and the Chief Registrar

The evolution towards the digitalisation of Justice and the procedures of the Courts and Registries, continued during 2022. The electronic filing and case management system iJustice (interim solution) operated successfully, creating now, a new culture among Courts, lawyers, and litigants, of electronic management and processing of court procedures. Filing, with regard to new cases, is now conducted electronically, a fact which has, undeniably led to faster procedural processing and the facilitation of lawyers and litigants.

During the year, the process of developing the complete information system eJustice, which is expected to launch in 2023, peaked. The key challenge of eJustice, is to incorporate all existing courts and jurisdictions, as well as to be configured in such a way as to include the new courts and the new tier structure which was created after the enactment of the Reform Laws. Furthermore, steps are being taken for ejustice system to include for the eJustice to include the provisions of the new Civil Procedure Rules. Another great objective of the eJustice system, is the digitalization of fine warrants, as well as the interconnectivity with various governmental departments and services, so that a prompt, valid and automated exchange of data would take place. Moreover, the system will support the creation of a database for published court decisions, through a case-law portal. Large groups from the Judicial Service, the Department of IT Services, the Cyprus Bar Association and other stakeholders are engaged within the project. The Judicial Service participates in the project with personnel from all positions (Judges, Registrars, Secretarial Staff and Stenographers).

The eJustice system aims to improve the efficiency of the courts and registries, without inducing fundamental changes, since, it essentially, digitalizes paper-based procedures. By its implementation, the existing capabilities of iJustice will be broadened, and further functionalities for case management, enforcement of court decisions, creation of statistics / reports et cetera, will be developed.

eJustice is an ambitious undertaking and given the multiplicity of the targets, the project will be implemented in stages.

The significant challenges of implementing eJustice are, inter alia, the digitalization of Criminal Jurisdiction and the International Protection Administrative Court which, because of the particularities of their procedures,

have remained outside the scope of iJustice. It is additionally noted that in pursuing an easy user transition (internally and externally) from iJustice to eJustice, proper planning and a functional transitional policy is required.

In passing, it is worth mentioning that within the framework of the Backlog Project, all pending actions before the District Courts, between the years 2014-2018, have been digitized with a Data Entry method. Thus, the monitoring of the backlog cases and the export of statistics / reports has become easier and more simplified. It is also feasible to migrate the digitized data of these cases in the eJustice system and create electronic case files, if needed.

It is now being attempted to expand the project to all pending actions that were not created in a case management / information system.

With regard to the implementation of the Digital Audio Recording (DAR) system in courts, for recording the court procedures, a project that was included in the Recovery and Resilience Plan, during 2022, it was assigned to experts to prepare a study for setting out the structural needs and the business re-engineering procedures for the requirements of the new system, as well as to prepare the technical requirements of the suggested solution. The study was completed in September. The preparation of public tender documents is underway and a notice of invitation to tender is expected to be published in 2023.

Furthermore, in July 2022, the Supreme Court, took an unprecedented decision in principle for the implementation and adoption of remote hearings. This initiative will decongest the courts, reduce the housing needs of the Judicial Service, enhance the efficiency of courts, facilitate lawyers and litigants, and sends the message that, the Judicial Service is ready to adopt technological advancements, for the modernization and upgrade of its procedures, as well as for the faster determination of court cases.

To recapitulate, the digital transformation of the Judicial Service, is proceeding at a steady pace. Upcoming changes are ample and have to be assimilated rapidly, in order for them to be able to function effectively. Acceptance of technological upgrades, by all the stakeholders, is a prerequisite for the harmonious integration of the forthcoming reforms and in order to produce the desirable outcome.

ABOVE:
Andreas Y. Tserkezos,
Registrar Supreme Court of Cyprus,
Office of the President of the Supreme Court and the Chief Registrar

Notable Decisions 2022

OF THE SUPREME COURT

Criminal Appeal no. 38/10 Georghiou v. Republic, 20 January 2022

The appellant challenged his conviction and the sentence imposed on him for the offences of importing and unlawfully possessing controlled drugs with the intent to supply them to others. According to the facts the appellant was part of a well organized drug importation ring in Cyprus.

The grounds of appeal included, inter alia,
- Violation of the right to a fair trial and the principle of the equality of arms due to the destruction of evidence.
- Abuse of power during the procedure for his arrest and surrender on the basis of a European Arrest Warrant.
- Wrongful admission of the testimony of an accomplice without corroborating evidence.
- Unequal treatment in sentencing

The Supreme Court in dismissing the appeal emphasized that where an issue of equality of arms is raised based on the destruction of evidence the first question that should be answered is whether the prosecuting authority has an obligation to preserve and safeguard the evidence and whether it is responsible for the loss or destruction of the evidence (in this case a telephone) (bad faith, mala fides). In the case where the Prosecuting Authority is not responsible for the loss or destruction of the material evidence, then the question that must be answered by the Court is whether there has been an adverse effect on the Defence.

The Supreme Court concluded that the prosecuting Authority did not bear any responsibility for the destruction of evidence. Whatever difficulty the Defence faced as a result of the destruction of the telephone, the same difficulty was also encountered by the Prosecuting Authority. The destruction of the telephone did not lead to a breach of the principle of equality of arms.

Regarding the allegation of abuse of power, the Supreme Court noted that the alleged omissions in the execution of the EAW could not be reviewed by the court of first instance. The most important issue was that the surrender was performed on the basis of a legally issued EAW.

It was also held that the first instance court had properly exercised its discretionary power in accepting the evidence of an accomplice as sufficiently credible, after duly warning itself of the dangers of acting on his uncorroborated evidence.

Lastly, it was pointed out that the right of the President of the Republic to exercise the prerogative of mercy under Art. 53 of the Constitution by remitting or suspending a sentence, could not be judicially reviewed and could not be considered a mitigating factor or a ground for suspending the sentence of a co-accused.

24 JAN 2022

Recourse 4/2021

The Attorney General appointed an investigative committee to examine the issue of the naturalisation, by way of exception, of foreign investors and entrepreneurs. The House of Representatives debated the issue and proceeded to issue a Decision to publish the Commission's Interim Finding. The Decision was published in the Official Gazette of the Republic. The Attorney General challenged the authority of the Parliament to vote on the challenged decision, by Recourse to the Supreme Court under Article 139 of the Constitution which provides for the jurisdiction of the Supreme Court to adjudicate on a recourse relating, inter alia, to a conflict or contest of power or competence between any organs or authorities in the Republic.

In the context of a preliminary objection regarding, whether the Attorney General constituted an "organ" or "authority" the Supreme Court ruled that, the constitutionally established status of the Attorney General and the power that directly surrounds his person, conferred on him the status of an "organ" or "authority".

The Decision of the House of Representatives violated the constitutionally guaranteed competences of the Attorney General, interfered with his exclusive powers, affecting the uncontrollability of his power. Promulgation is a condition for the implementation of any law or decision of the House of Representatives, without which a law or decision does not acquire legal force. The constitutional deviation consisted in the publication of the Decision, without having followed the procedure under Article 52 of the Constitution, that is, the involvement of the President of the Republic.

The Parliament's Decision was annulled in its entirety.

30 MAR 2022

Civil appeal no. 276/14 Attorney General v. Alkiviadou, 30 March 2022

This was the first case that came before the Supreme Court regarding an Employer's civil liability for sexual harassment at work.

The appellant/respondent 1 (Attorney General) by the appeal challenged the judgment of the first instance court by which he was found liable as the respondent's employer for the sexual harassment suffered by her in violation of the ***Equal Treatment** of Men and Women in Employment and Vocational Training Law (L. 205/02).*

The appellant argued that the Republic of Cyprus was the respondent's employer and the application had wrongly been filed against the Attorney General.

The Supreme Court dismissed the contention stating that according to Article 113 of the Constitution, the Attorney General is the legal adviser of the Republic and all actions against the Republic, shall be in his name as provided by article 57 of the Courts of Justice Law, (L 14/60).

The appellant further contended that the first instance court erred both in law and in principle when it decided that as an employer he had failed to take the necessary actions to prevent and deter or stop the sexual harassment of the respondent in her work environment in that he did not provide relevant information.

The Supreme Court held that the court rightly attributed liability to the Appellant. It stated that the appellant had breached one of his most important obligations emanating from the law, that is to inform employees of the principle of equal treatment at work and especially about sexual harassment. The SC dismissed the allegation that the duty to inform the personnel about equal treatment does not lie with the employer but with the labour organizations of the employees.

Lastly it held that the appellant was rightly held jointly liable, in terms of compensation, for the wrongful acts of his employee.

11 MAY 2022

Criminal Appeal no. 205/17 Dejan v. Republic, 11 May 2022

The appellants were convicted on counts of premeditated murder of four persons. According to the facts the appellants had planned the murder of a specific person which, however, resulted in the death of three more.

The grounds of appeal mainly concerned the credibility of the evidence given by their former co accused- accomplice. They argued, firstly, that the Assize court had erred in seeking corroborative evidence prior to concluding positively on the credibility of the accomplice (PW39). Secondly that due to the contradictions in his testimony the accomplice should not have been deemed credible and thirdly that part of his testimony was hearsay evidence. The appellant defendant 2 also contended that he was wrongly convicted of the murder of the three other victims.

The Supreme Court after analysing the principles that govern the evaluation of the evidence of an accomplice dismissed the appeal. It noted that the Assize court correctly accepted as credible the evidence provided by the accomplice. The Assize court did not rely on any corroborative evidence, to come to the conclusion that the evidence of the accomplice was credible. It was only after it had evaluated his evidence separately and reached the conclusion that it was positive and solid that it proceeded to look for supporting evidence.

Any contradictions or inaccuracies in the testimony of PW 39 were not so substantial as to overrule the finding on his credibility. As a general rule the Appeal Court does not interfere on appeal with findings of a trial Court based on the credibility of witnesses when it is satisfied that such findings were reasonably open to the trial Court; that it is up to the party challenging such findings to satisfy this Court, on appeal, that they are erroneous. The appellant had failed to satisfy this Court that the Assize Court was wrong in its finding as to the credibility of PW 39.

Regarding the argument that the Assize court wrongly accepted hearsay evidence, reference was made to Section 27 of the Evidence Law, Cap 9. According to the said provision the Court in considering the weight which should be given to hearsay evidence, will take into consideration whether the litigants could have produced the best possible evidence and failed to do so. Taking into account the unwillingness of an ex co-accused to testify, the hearsay evidence produced was the best evidence that could be produced.

Lastly regarding the ground that the appellant defendant 2 was wrongly convicted for the premeditated murder of the other three persons since, as he alleged there was a lack of premeditation, the principle of "transferred malice" could be applied. The conspiracy was to kill the particular target. As the execution of the offence resulted in the death of three other persons, the mens rea for murder, including premeditation was transferred and also covered the murder of these other victims. Therefore, all conspirators were criminally liable, including appellant defendant 2.

03 JUN 2022

Revisional Appeal 108/2015 Santafianos v. Republic of Cyprus, through the Chief of Police, 3 June 2022

Reasons to be given for a decision to reject the promotion of a police officer to the rank of police sergeant.

The appellant police officer appealed against the decision of the administrative court which dismissed his recourse challenging the decision of the Chief of Police to refuse to promote him for bravery to the rank of Sergeant in accordance with the previous recommendation of his Commanding Officer. According to Regulation 10 of the Police (Promotions) Regulations (KDP214/04), the Chief, with the approval of the Minister, promotes a member of the Police to the next rank, even if he does not possess the qualifications required for promotion, when he commits an act that puts his life in real danger, exceeding the limits of the normal performance of his duties and obligations.

It was contended that his promotion for bravery was specifically justified and established by facts set out by the Commanding Officer in charge.

The Court of Appeal held following the relevant case-law that, although more specific reasons are required in cases of promotion as an exceptional measure, this does not imply that no reasons are required in cases where such promotion is refused. This was a discretionary decision, unfavorable to the appellant, and even contrary to the prior opinion of the Commanding Officer in awarding the promotion to the appellant. It therefore fell within the scope of the administrative acts that must be reasoned under the General Principles of Administrative Law legislation 158(I)/99(Articles 26,28).

The Chief's handwritten memo did not disclose an investigation of the specific facts, that prima facie placed the Appellant's life in real danger, nor the criteria he considered that the Appellant had met in order to be promoted and which he did not.

The mere repetition of general legislative provisions is not considered as sufficient justification/reasoning.

06 JUN 2022

Referral 8/2021

The President of the Republic by Referral requested the opinion of the Supreme Court on whether the "Social Insurance (Amendment) (No. 6) Law of 2021" was inconsistent with Directive 2014/24/EU, Articles 80.2, 122, 125.1, 179 of the Constitution and the Principle of Separation of Powers.

The law aimed to amend the Social Insurance Law, so that the meaning of the term "employee" for social security purposes would include employment pursuant to a contract for the purchase of services or any other relevant contract, regardless of the description given to such a contract, provided such agreement is characterized by an employer-employee relationship, in order for the employees to have all the rights and benefits, including the payment of their social insurances as employees and not as self-employed persons.

The Court concluded that the Law did not create a new category of employment or employees, nor did it contravene Article 80.2 of the Constitution as it did not result in an increase in State expenses. The Law did not provide about the employment of persons in the Public Sector, but simply regulated the cases in which a person employed in the Public Sector by virtue of an employment contract or purchase of services agreement would be considered an "employee" for social security purposes. The regulation of the Parliament fell within the scope of its Legislative function.

20 JUL 2022

Referrals 6/2021 and 7/2021

The issues considered in the two Referrals to the Supreme Court were identical. The subject matter in Referral 6/2021 was whether the "Social Insurance (Amendment) (No. 4) Law of 2021" was inconsistent with the provisions of Articles 80.2 and 179 of the Constitution of the Republic of Cyprus and the Principle of Separation of Powers, while with Referral 7/2021 an opinion of the Supreme Court was sought as to whether the "Social Insurance (Amendment) (No. 5) Law of 2021" was in conflict with the provisions of Articles 80.2 and 179 of the Constitution of the Republic of Cyprus and the Principle of Seperation of Powers.

In the framework of the 6/21 Referral, the Executive had submitted to the House of Representatives a bill which provided that a person who had reached the age of 63 and was entitled, but had not exercised the right to receive a statutory pension, would be entitled to a sickness allowance under conditions. In Referral 7/21, the purpose of the Law was to amend the basic Law, so that persons who reached the age of 63, who were temporarily unemployed and had not applied for a statutory pension, would be entitled to unemployment benefit. The House of Representatives passed the bills after acceding to amendments.

The Court noted that the provision of benefits is a matter that falls within the competence of the Executive in the exercise of its administrative function and requires the regulation of specific cases after consultation with all competent bodies, special knowledge on the subject and a thorough study to evaluate the financial consequences that the bill would bring to the Social Insurance Fund and, by extension, to the State Budget.

The Referred Laws were incompatible with the provisions of Article 80.2 of the Constitution and by extension, with Article 179 of the Constitution. They also violated the constitutional principle of Separation of Powers and could not be promulgated.

20 JUL 2022

Recourse 1/2022

The President of the Republic requested, by recourse, under Article 139 of the Constitution, a declaration of the Supreme Court that specific reservations placed in the Expenditure Statements of the 2022 State Budget Act, were invalid and without legal effect, as they were made in violation of the Principle of the Seperation of Powers and European Directive 1999/70/EC.

The reservations related to appropriations approved by the House of Representatives, to cover the remuneration of the advisers/associates of the President of the Republic and other members of the Government, whose employment would be terminated upon the expiration of the Government's term of office or the departure of the President of the Republic or earlier. The State Budget Bill was submitted to the House of Representatives which passed the Bill into Law, after the addition of the contested reservations by parliamentary amendment. Subsequently, the President of the Republic exercised his constitutional powers by signing and publishing the contested Law in the Official Gazette of the Republic.

The Supreme Court reiterated that the State Budget constitutes a law and, as a result, the President of the Republic is involved in its promulgation by publication in the Official Gazette, by virtue of Article 52 of the Constitution. The act of promulgation surrounds the Law with legal force, shielding it with a rebuttable presumption of constitutionality and is a prerequisite for its implementation. The President acknowledged the Law's constitutionality, certifying, in essence, that it was made in accordance with the Constitution. The fact that the President expressed reservations at an earlier stage without exercising the right of referral to the Supreme Court, for its opinion, did not affect the validity of the Law.

It was not feasible to retrospectively challenge certain provisions of the Law by recourse under Article 139. The President of the Republic, by exercising his constitutional powers, in the context of preventive control, certified the constitutionality of the Law that had been passed. Consequently, the ex-post challenge took the form of a repressive review of its constitutionality, a matter that lay outside the constitutional powers of the President of the Republic. The recourse was rejected by a majority of the Court as inadmissible.

21 SEP 2022

Civil Appeal no. E52/21 Attorney General of the Republic v. CYFIELD - NEMESIS etc., 21 September 2022

The appeal concerned the dismissal by the Nicosia District Court, of an application by the Attorney General, in a public nuisance action, for an interim injunction regarding the operation of the defendant's/ respondent's asphalt factory. The factory was operating at the time on the Geriou industrial site pursuant to a licence, however, a certificate of final approval regarding building additions made at various times, was disputed. According to the applicant/appellant, the factory created a public nuisance by emitting fumes, smoke, odours, etc., affecting air quality, endangering the comfort of local residents and/or violating their human and constitutional rights. The Council of Ministers had already decided to relocate it.

In examining the second prerequisite for granting an interim order, concerning the likelihood of success of an action, the probative value of the case is assessed, for the purpose of the interim relief procedure, on the basis of the evidence of the party seeking relief. The court of first instance held that the second condition was not met, as the operation of the factory did not violate any legislation. The judge did not take into account the testimony before him about serious health symptoms, experienced by the residents due to the inhalation of exhaust fumes and the suffocating atmosphere caused by the factory, because such health-damaging acts were not accompanied by "*any unlawful act or failure to perform a legal obligation on the part of the defendants*."

According to the judgment of the Court of First Instance, no unlawful act was proven, an element of the offence of ''*public nuisance*'' within the meaning of Article 45 of the Civil Wrongs Law, Chapter 148.

The Attorney General submitted as a first ground of appeal that acts and/or omissions detrimental to public health need not be accompanied by any unlawful act or omission in the performance of a legal obligation.

The Court of Appeal allowed the appeal and decided that the Court of First Instance wrongly linked the possession of a factory licence to the concept of committing a public nuisance. According to the case law, odours, smoke, dust, noise, vibration, gases, fumes and humidity are some of the interventions that in themselves constitute a public nuisance, without requiring proof of illegal operation. The nuisance therefore becomes unlawful because of its consequences for residents, while the term "*unlawful act*" in the context of the specific criminal or civil offence means "*an act not warranted by law*"

The fact that there was a planning permission in no way affected the existence of the nuisance .

The trial court judgment was set aside and an injunction was granted suspending the operation of the asphalt factory pending the outcome of the lawsuit.

13 OCT 2022

Civil Appeal 272/21, 13 October 2022

ON THE APPLICATION OF N.T. AND R.Z. PERSONALLY AND AS GENERAL MANAGER OF THE GIOVANI GROUP OF COMPANIES FOR A WRIT OF CERTIORARI

The appeal concerned the decision of a Supreme Court Judge, by writ of certiorari, to quash a "court order" (the warrant) granted to the Attorney General/ Appellant by the District Court under sections 21, 22 and 23 of the *Protection of Privacy of Private Communications (Surveillance of Conversation and Access to Recorded Content of Private Communications) Law of 1996, (Law 92(I)/1996) ('the Law')*, which authorised access to 'recorded content of private communications' and 'data' concerning the appellants.

The District Court, in reasoning its decision to grant the warrant referred to the belief expressed in the affidavit of the applicant Attorney General and finds expression in section 21((3) of the Law in the term "reasonably believed", regarding the existence of such evidence in documents, devices and objects, which had come into the possession of the Police (section 21 of the Law) in connection with the investigation of certain criminal offences.

The warrant was quashed because it was held that the District Court acted "mechanically", in that it failed to exercise its discretionary power under section 23(1), and in excess of powers, in applying section 21(4) of the Law.

Under section 23 of the Law, the Judge grants the relative warrant if satisfied cumulatively that,

a. there is reasonable suspicion or probability that a person has committed, is committing or is expected to commit an offence
b. there is a reasonable suspicion or likelihood that a particular private communication is connected or relevant to the offence
c. it is in the interests of justice to issue the warrant.

In this case, the District Court failed to state its reasoning in relation to the existence of the above criteria/conditions, but limited itself to mechanically recording that "on the basis of the data provided, it is established that there is a reasonable suspicion or probability that the data in question is connected or relevant to serious criminal offences", meaning "data" in accordance with the provisions of the *Retention of Telecommunications Data for the Purpose of Investigating Serious Criminal Offences Act of 2007, (N.183(J)/2007).*

However, the two aforementioned Laws regulate different issues and are applied independently. A Judicial warrant issued under Article 21 of Law 92(1)/1996 authorises access to "recorded content of private communications" and a further "request for access to data" (as defined in Law 183(I)/2007) may be included on the basis of Article 23, provided that the Court is satisfied that the three criteria are met.

Furthermore, because such warrant is issued in derogation of the fundamental right to privacy of correspondence and respect for private communication in Article 17.1 of the Constitution, the mandatory provisions of Articles 21 and 23 of the Act must be strictly examined by the Court. The reference in the first instance Judgment to "certain facts connected or relevant to serious criminal offences" did not establish that the District Court considered the type of offences alleged in the petition, nor had it been ascertained which of the criminal offences referred to in the relevant application fell under subsection B.(e) of Article 17.2 of the Constitution.

On the basis of the above reasoning , the appeal was dismissed.

Events & Meetings 2022

04 02
Meeting with the Director General of DG Reform of the European Union Mr. Mario Nava

15 02
Courtesy visit of the Ambassador of Greece in Cyprus Mr. Ioannis Papameletiou

30 03
Presentation of the HELP Self-Learning Course on the new Civil Procedure Rules on Cyprus

07 04
Meeting with the Attorney General and the Commissioner for Personal Data Protection in Cyprus for the Anonymization of Court Judgements

03 & 09 05
Meeting of the then President of the Supreme Court at the Ministry of Foreign Affairs for the appointment of the Advocate General of the Court of Justice of the European Union

16 & 18 05
Training of Citizen Service Center's officials for administering oaths – Project for the Modernization of Public Administration

17 05
Speech by the then President of the Supreme Court Training Seminar "Children – Vulnerable Witnesses" and meeting with Lady Dorrian, Lord Justice Clerk, Court of Session Scotland

18 - 20 05
Visit in Cyprus of Representatives of the European Commission, the Council of Europe and the Experts for the Project of Independent Court Service (SRSP4). Courtesy meeting of the then President of the Supreme Court with Mr. Daniel Dotto Deputy Director, Head of Unit – Governance and Public Administration, DG REFORM, European Commission

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Participation of the Supreme Court (L. Demetriadou-Andreou, J.) at the Seminar of ACA-Europe - "Techniques for the protection of private subjects in contrast with public authorities: actions and remedies – liability and compliance"

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Meeting of the Supreme Court with Ms Aikaterini Koutsopoulou, Judge, Minister of Foreign Affairs and Minister of Justice and Public Order

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Teleconference of the then President of the Supreme Court with Ms Vivian Kyriacopoulos, Honorary Consul General of Cyprus in Montreal, Mr. George Erotocritou, Director of Judicial Training School and Ms Mary Moreau, Chief Justice of the Court of Queen's Bench of Alberta, Canada

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Training of the operators of the security equipment in the entrances of the courts – Project for Enhancing the safety of Courts

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Webinar by T. Th. Economou, J. on the subject of the new Circular of the Supreme Court about the anonymization of court judgements

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European Union» Online Conference «VII Conference of the Presidents of Appeal Courts of the European Union»

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06

Visit of the Minister for Justice of Greece, Mr. Konstantinos Tsiaras

08 07 Meeting with Ms Elisa Ferreira, European Commissioner for Cohesion and Reforms

12 07 Swearing-in-ceremony of Mr. Antonis R. Liatsos, new President of the Supreme Court of Cyprus at the Presidential Palace

26 07 Visit of Ms. Anna Marcoulli, Judge at the General Court - Court of Justice of the European Union

09 08 Courtesy visit of Mr. Nicholas Emiliou, Advocate General Court of Justice of the European Union

29 08 Meeting with the Minister of Justice and Public Order, the Minister of Transport, Communications and Works and the President of Cyprus Bar Association for the upgrade of the building of the District Court of Nicosia

16 09 First session of the new Transitional Consultative Council and the new Transitional Supreme Council of Judicature

20 09 Courtesy visit of the President of the Supreme Court to the House of Representatives

27 09 Courtesy meeting with Ms. Louiza Christodoulidou Zannetou, Law Commissioner

02 - 08 10 Study visit of the Cyprus Delegation to Dublin and to the European Court of Human Rights, Strasburg in the framework of the 'Courts Service' Project.

11 10 Courtesy meeting with Mr. Nicos Anastasiades, President of Cyprus at the Presidential Palace

21 10 Courtesy meeting with the Public Service Commission

25 10 Event for the European Day of Civil Justice

27 10 Courtesy visit of Ms Anke Schlimm, Ambassador-designate of the Federal Republic of Germany in Nicosia

01 11 Event organized by the Supreme Court of Cyprus for the 70 years of the Court of Justice of the European Union (CJEU)

04 11 Courtesy visit of Ms Annita Demetriou, President of the House of Representatives

18 11 Discussion of the Judicial Service's budget at the House of Representatives

24 11 Event at the Supreme Court with keynote speaker Dr. Symeon C. Symeonides, Dean Emeritus, Willamette University College of Law, Oregon, USA regarding the Hague Convention 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

21 12 Ribbon-cutting ceremony of the renovated building of the Administrative Court, by the President of Cyprus

" The year 2022 was, without a doubt, a pivotal one for Cyprus Justice."

Antonis R. Liatsos
President of the Supreme Court

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