



REPORT ON **FREEDOM OF EXPRESSION** IN THE NORTHERN PART OF CYPRUS

January - December 2022



This publication was funded by the European Union. Its contents are the sole responsibility of the Human Rights Platform and do not necessarily reflect the views of the European Union.

REPORT ON **FREEDOM OF EXPRESSION**
IN THE NORTHERN PART OF CYPRUS

January - December 2022

Prepared by
Öncel Polili

Contributors
Ali Dayıoğlu - **Editor**
Suay Özgür - **Researcher**
Adem Arkadaş - **Expert Opinion**

Published by
Human Rights Platform

First Edition
October 2023, Nicosia

Design
Cypdes Factory Advertising

 **Girne Street 168, Nicosia**

 **insanhaklariplatformu@gmail.com**

 **ihp.hrp**  **ihp.hrp**  **ihp_hrp**



This publication was funded by the European Union. Its contents are the sole responsibility of the Human Rights Platform and do not necessarily reflect the views of the European Union.

REPORT ON **FREEDOM OF EXPRESSION**
IN THE NORTHERN PART OF CYPRUS

January - December 2022

CONTENTS

SUMMARY	5
INTRODUCTION	5
METHODOLOGY	6
THE STATUS OF HUMAN RIGHTS MONITORING IN THE NORTHERN PART OF CYPRUS	6
LEGAL FRAMEWORK	6
ANALYSES ON FREEDOM OF EXPRESSION	8
1. CRIMINAL CONTENT RESTRICTIONS	8
i. 'LEGISLATION'	8
ii. IMPLEMENTATION	10
2. CIVIL CONTENT LIMITATIONS	11
i. 'LEGISLATION'	11
ii. IMPLEMENTATION	11
3. RIGHT TO INFORMATION	12
i. 'LEGISLATION'	12
ii. IMPLEMENTATION	13
4. INDEPENDENCE OF THE MEDIA	13
i. 'LEGISLATION'	13
ii. IMPLEMENTATION	18
5. PRINT MEDIA	19
i. 'LEGISLATION'	19
ii. IMPLEMENTATION	19
6. RADIO AND TELEVISION BROADCASTING	20
i. 'LEGISLATION'	20
ii. IMPLEMENTATION	21
7. MEDIA DIVERSITY	21
i. 'LEGISLATION'	21
ii. IMPLEMENTATION	21
8. 'PUBLIC' BROADCASTING	21
i. 'LEGISLATION'	21
ii. IMPLEMENTATION	22
9. DIGITAL RIGHTS	22
i. 'LEGISLATION'	22
ii. IMPLEMENTATION	22
10. CIVIL SOCIETY ORGANISATIONS CONCERNED WITH FREEDOM OF EXPRESSION	23
CONCLUSIONS AND RECOMMENDATIONS	24

SUMMARY

This report focuses on the 'legislation' its implementation and related developments on freedom of expression in the northern part of Cyprus in 2022. The report specifically analyses the situation regarding human rights monitoring, the 'legal' framework, 'legal' analyses and practices related to freedom of expression in the northern part of Cyprus.

In addition to human rights conventions, which are part of 'domestic law', the 'constitution' also guarantees freedom of expression in a specific and detailed manner. However, the existing 'legislation', which dates back to the British colonial period, is incompatible with the principles of freedom of expression. Unfortunately, the 'authorities' have not made significant efforts to amend this 'legislation' but rather aimed to make it more stringent. Compared to previous years, 'legislation' that contradicts freedom of expression and imposes penalties for deprivation of liberty has been used more often in 2022 than in previous years, particularly in cases involving criticism of ruling politicians. The case-law of the ECtHR is not taken into account when bringing forward such cases.

Regarding public broadcasting, the management of such organisations, which directly impacts freedom of expression, does not appear to be independent. On many occasions, these organisations have been perceived as the mouthpiece of the 'government'. Although certain 'legal provisions' exist, such as the 'law on press labour' aimed at safeguarding the independence of private media outlets, it is not possible to argue that press employees are adequately protected.

The absence of a 'national' human rights institution¹ established in accordance with the Paris Principles² is a shortcoming for the development of freedom of expression.

INTRODUCTION

The aim of this report is to analyse the events that took place in 2022 in relation to freedom of expression and assess them in line with international human rights treaties, the 'constitution' and the 'case-law of the courts'. In addition, the 'legal structures' of the 'institutions' related to freedom of expression will also be evaluated within the framework of international human rights legislation.

In terms of freedom of expression, the 'constitution' aligns with the principles outlined in the European Convention on Human Rights (ECHR). Nevertheless, there are some 'laws' in force that contradict freedom of expression, as will be discussed further. While the 'constitution' includes provisions that endorse freedom of expression, there are certain 'laws' currently in force that run counter to these principles, which will be elaborated on below.

¹They are public institutions established at constitutional or legal level for the protection and promotion of human rights. Although they are within the public administration, they are functionally independent of the government". <https://www.tih.gov.tr/kategori/pages/BM-ve-Ulusal-insan-Haklari-Kurumlari#:~:text=U%C4%B0HK'ler%20anayasal%20veya%20yasal,i%C5%9Fley-i%C5%9F%20olarak%20h%C3%Bck%C3%BCmetten%20ba%C4%9F%C4%B1ms%C4%B1z%20kurumlard%C4%B1r.> accessed on 17/5/2023.

²Legislation setting out the Principles on the Status of National Organisations Established for the Promotion and Protection of Human Rights.

METHODOLOGY

In the process of compiling this report, particular emphasis was placed on analysing news coverage on freedom of expression in the press. Moreover, considering that many of these news items have been subjected to ‘legal proceedings’, the relevant ‘court cases’ were also closely monitored.

The “black letter” method formed the basis for the legal sections of this report. Comprehensive research was undertaken, mainly drawing upon primary sources, with interpretations shaped by the author’s expertise. These primary sources encompass the prevailing ‘constitution’, ‘laws’, and significant ‘court cases’ in the northern part of Cyprus. In addition to assessing the ‘legal framework’, an analysis was conducted on the practical implementation of these ‘laws’.

THE STATUS OF HUMAN RIGHTS MONITORING IN THE NORTHERN PART OF CYPRUS

Since the *de facto* partition of Cyprus in 1974, the protection of human rights in the northern part of the island has posed persistent challenges. Despite the incorporation of international conventions safeguarding freedom of expression into ‘domestic law’, as elaborated upon below, the *de facto* status of the political structure in the northern part of Cyprus has attracted its own unique international scrutiny. Following the European Court of Human Rights (ECtHR) ruling in the case of *Loizidou v. Turkey*, Turkey was held accountable for human rights violations in the northern part of Cyprus.³ Similar judgements have been rendered by the Human Rights Committee, one of the United Nations (UN) bodies responsible for monitoring the implementation of human rights treaties.⁴ Given the situation, neither the ECtHR nor the Human Rights Committee receive a significant number of applications originating from the northern part of Cyprus.

On the other hand, prominent civil society organisations focused on human rights, such as Amnesty International and Human Rights Watch, also do not include assessments of human rights practices in the northern part of Cyprus within their annual reports.

Furthermore, local civil society organisations in the northern part of Cyprus are not sufficiently active due to constraints such as limited resources, insufficient understanding of human rights, and pressure from various sources.

‘LEGAL FRAMEWORK’

Freedom of thought encompasses unrestricted access to ideas and information, ensuring that individuals are not condemned for their thoughts and opinions. It enables individuals to freely express, defend, transmit, and disseminate their thoughts through various mediums, such as speech, media, art forms like painting, cinema, and theatre. This freedom can be exercised individually or in association with others, such as through associations, meetings, or unions.⁵ The expression of thoughts is defined as freedom of expression. ‘Article 1 of the constitution’, establishes the northern part of Cyprus as a secular ‘republic’ grounded in the principles of democracy, social justice, and the rule of law. Notably, freedom of thought receives extensive protection within the ‘constitution’, more so than any other rights.⁶ Additionally, the ‘constitution’ specifically safeguards various related rights including Freedom of Science and Art,⁷ Freedom of the Press,⁸ Right to Publish Newspapers, Magazines and Pamphlets,⁹ Right to Publish Books,¹⁰ Protection of Printing Equipment,¹¹ and the Right to Make Use of Means of Communication other than the Press.¹²

³ *Loizidou v. Turkey* (2011) App. No. 16882/90.

⁴ Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October – 2 November 2012) para. 11.

⁵ İbrahim Ö. Kabaoğlu, *Özgürlükler Hukuku İnsan Haklarının Hukuksal Yapısı* (first publication 1999, Afa publishing house) p. 214.

⁶ 1985 constitution, art. 24’

⁷ 1985 constitution, art. 25’

⁸ 1985 constitution, art. 26’

⁹ 1985 constitution, art. 27’

¹⁰ 1985 constitution, art. 28’

¹¹ 1985 constitution, art. 29’

¹² 1985 constitution, art. 30’

The significance of providing specific protection for these rights and freedoms lies in the fact that each of them is subject to distinct grounds for limitation. While ‘article 11 of the constitution’ establishes the conditions under which rights and freedoms in general may be limited, ‘article 24. (3)’ specifically sets the conditions under which freedom of thought, speech, and expression may be limited. ‘Articles 26., 27. and 28. of the constitution’ specifically and respectively sets the grounds for limitation of freedom of the press, the right to publish newspapers, magazines, and pamphlets, the right to publish books, and the protection of printing equipment, which all fall within the realm of freedom of expression.

Article 10. (2) of the ECHR lays down the conditions under which freedom of expression may be restricted. The grounds for limitation set forth in the ‘constitution’ and the ECHR are compatible. Article 10. (2) of the ECHR does not only recognise the legitimate grounds listed above as grounds for limitation, but also defines them as formalities, conditions, limitations or sanctions. ‘Article 24 (3) of the constitution’ defines legitimate grounds as conditions, limitations or penalties. However, ‘article 24. (3) of the constitution’ specifically stipulates that freedom of thought, speech and expression may **only be subjected to** the formalities, conditions, limitations or penalties set out in ‘article 24. (3) of the constitution’. In this context, the essence of fundamental rights and freedoms outlined in ‘article 11 of the constitution’, as well as the legitimate grounds for their limitation, should not be used to limit the freedom of thought, speech and expression outlined in ‘article 24 of the constitution’. Furthermore, given the distinct regulations pertaining to freedom of the press, the right to publish newspapers, magazines, and brochures, the right to publish books, and the protection of printing equipment, the grounds for limitation associated with these freedoms should not exceed their respective boundaries.

Furthermore, the formalities, conditions, limitations or sanctions set out in article 10. (2) of the ECHR are all encompassed within the ‘constitution’, although not expressed using the exact same wording. However, the grounds for limitation outlined in the ECHR consist of a compilation of the grounds for limitation found in European countries.¹³ All of these grounds of limitation are enshrined in the ‘constitution’.

The following international conventions, which have been incorporated into domestic ‘law’, directly pertain to freedom of expression:

1. European Convention on Human Rights (art. 10) (1962);
2. International Covenant on Civil and Political Rights (art. 19) (2004);
3. International Covenant on Economic, Social and Cultural Rights (2004);
4. International Convention on the Elimination of All Forms of Racial Discrimination (art. 5.d.viii) (2004);
5. Convention on the Elimination of All Forms of Discrimination against Women (1996);
6. Convention on the Rights of Persons with Disabilities (art. 21) (2010);
7. Convention on the Rights of the Child (art. 13) (1989).

Despite the ‘constitution’ aligning its provisions on freedom of expression with international conventions, there are persistent issues in the ‘legislation’ that hinder its compliance with international human rights standards. Moreover, it is difficult to say that substantial efforts are being made to address these shortcomings and bring the ‘legislation’ in line with these standards. On the contrary, during the reporting period, attempts have even been made to enact regressive ‘legislation’ that hinders freedom of expression. Nonetheless, due to opposition from media outlets and other entities advocating for freedom of expression, political parties withdrew their proposed ‘draft law’ on ‘chapter 154 criminal code (amendment)’, the ‘draft law on seditious publications (amendment)’, and the ‘draft law on protection of private life and privacy (amendment)’. In its 2001 decision on “seditious publications”¹⁴, the ‘supreme court’ ruled that the offence of seditious publications is incompatible with freedom of expression,¹⁵ outdated and incompatible with freedom of expression. Despite this significant ruling, political ‘authorities’ have disregarded this judgment along with other judgments of the ‘supreme court’ on this matter.

¹³ Tolga Şirin, *Türkiye’de Düşüncenin Tutsaklığı – 2. İfade Özgürlüğü’nün Yeşili*, (2021) p.63./ Bülent Tanör, *Türkiye’de Düşünce Özgürlüğüne Dair Hukuk Politikaları*, *Düşünce Özgürlüğü* p. 265.

¹⁴ ‘Chapter 154 criminal code’ 1929 s. 47 and 48.

¹⁵ *Avrupa Gazetecilik ve Yayın Şti. and the ‘attorney general’s office’ [2002] ‘Consolidated Criminal Appeal’ 64/02, 65/02, 66/02, D.4/2002.*

‘Article 90. (5) of the constitution’, in effect since 1985, stipulates:

“international treaties duly put into force shall have the force of law. However, these treaties cannot be invoked before the ‘supreme court’ acting as the ‘constitutional court’ with claims of unconstitutionality”.¹⁶

In 2001, in a case concerning freedom of expression, the ‘supreme court sitting as court of criminal appeal’ recognised the ECHR as part of ‘domestic law’.¹⁷

In 2006, in the ‘case’ between the National Unity Party (UBP) and the ‘parliament’, the ‘constitutional court’ interpreted ‘article 90 of the constitution’, affirming that the ECHR is incorporated into ‘domestic law’.

In practice, especially with regard to ‘cases’ involving freedom of expression, it proves difficult to affirm that the ‘courts’ consistently consider this freedom. This can sometimes be attributed to the parties involved in the case not sufficiently emphasizing the importance of freedom of expression.

There is no ‘legal’ impediment to challenge decisions of political ‘authorities’ limiting freedom of expression in ‘court’. In any civil or criminal ‘case’, an individual who believes that their freedom of expression has been violated by a ‘lower court’ decision can appeal to the ‘supreme court’.¹⁸ An application can also be made to the ‘supreme administrative court’ to annul the decisions of the ‘broadcasting high council’ (‘YYK’), which can issue restrictive decisions on freedom of expression. Likewise, if applications for radio and television broadcasting are rejected, they can be appealed to the ‘supreme administrative court’.

ANALYSIS ON FREEDOM OF EXPRESSION

1. CRIMINAL CONTENT RESTRICTIONS

i. ‘LEGISLATION’

As of December 2022, designed to protect ‘national security’ and ‘public order’ there exist several ‘legal regulations’ that do not align with contemporary human rights standards. Notably, ‘chapter (cap).154 criminal code’, which was enacted in 1929, was originally aimed at preventing and suppressing subversive activities carried out by both Greek Cypriots and Turkish Cypriots against the British administration. It also sought to limit seditious publications during the British colonial era in Cyprus.¹⁹ The prominent ‘legal regulations’ currently in effect are as follows:

1. Offences of seditious conspiracy and publications with seditious intentions (including insulting the leader of the Turkish Cypriot community) laid down in ‘sections 47 and 48 of cap. 154 criminal code’;
2. Offence of advocating and encouraging unlawful laid down in ‘section 57 of cap. 154 criminal code’. Possession of documents having a seditious intention and publication, etc., of propaganda of unlawful association is also deemed an offence under ‘section 59’ of the same ‘law’;
3. Offence of defamation against foreign state officials laid down in ‘section 68 of cap.154 criminal code’ and the offence of libel and slander regulated in ‘cap.154 criminal code, part 6 (sections 194–202)’;
4. ‘Section 177 of cap.154 criminal code’, which addresses the offence of obscene publications and exhibitions and the ‘law on obscene publications’, enacted in 1963. Both provisions include strong defence grounds to protect freedom of expression.
5. ‘Section 138 of cap. 154 criminal code’ regulates the insult to religion of any class, ‘section 139’ regulates the offences of disturbing religious assemblies, ‘section 140’ regulates the offences of trespassing on burial places, ‘section 141’ regulates the offences of uttering words with the intention to wound religious feelings and ‘section 142’ regulates the offences of publications insulting religion.

¹⁶ Office of the ‘attorney general’ and Ulus Matbaacılık, [2001] ‘Consolidated Criminal Appeal No. 47-48/1998, D. No. 1/2001.’

¹⁷ National Unity Party and ‘parliament’ [2006], ‘constitutional court’, ‘3/2006, 21/06/2006’.

¹⁸ ‘law No. 9/1976’ on ‘courts’, ‘1976 art. 37’.

¹⁹ Office of the ‘attorney general’s office’ and Ulus Matbaacılık [1998] Consolidated Criminal Appeal 47-48/98, D.1/2001.

‘LAW NO. 29/1983 ON MILITARY OFFENCES AND PENALTIES’

1. Offence of inciting the public or military personnel to alienation from military service, regulated under ‘section 29 of law no. 29/1983 on military offences and penalties’,
2. Offence of insulting and demeaning the moral personality of the security forces, regulated under ‘section 26 of law no. 29/1983 on military offences and penalties’.

‘CAP. 164 LAW ON SEDITIOUS PUBLICATIONS’

The ‘law on seditious publications’, comprised of 8 sections, was enacted in 1932. The aim of this ‘legislation’ is to prevent the dissemination of publications deemed seditious. Particularly, this ‘regulation’ can be used for prosecuting individuals who criticise politicians and carries a potential penalty of up to 6 months of imprisonment.

The aforementioned ‘provisions of cap. 154 criminal code’, ‘law no. 29/1983 on military offences and penalties’ and ‘cap. 164 law on seditious publications’, do not comply with international human rights law standards. In the ECtHR judgement in *Lingens v. Austria*, the court emphasised that political expression is one of the most important forms of expression to be protected. Although provisions protecting freedom of expression are stated in ‘sections 48 and 49 of cap. 154’, offences such as seditious conspiracy and publications with seditious intent severely restrict freedom of expression. These offenses have a “chilling effect” due to the potential imprisonment and lengthy proceedings, as well as bail conditions such as travel bans during the proceedings. Additionally, the ‘law no. 29/1983 on military offences and penalties’ and ‘cap.164 law’ on seditious publications do not include provisions that safeguard freedom of expression as a defence.

The existence of such ‘laws’ and their enforcement against individuals has a detrimental “chilling effect” on freedom of expression. The concept of “chilling effect” refers to the self-censorship and reluctance to exercise one’s rights or fulfil professional obligations out of fear of facing formal state actions, which may result in sanctions or informal consequences like threats, attacks, or smear campaigns against natural and/or legal persons.²⁰

“Chilling effect” is an established concept in the case-law of the ECtHR. According to the ECtHR, “chilling effect” practices not only impact the individuals directly affected by them but also have a broader negative influence on other natural and legal persons, deterring them from exercising their rights for fear of being subjected to similar measures.²¹

²⁰ Laurent Pech, *The Concept of Chilling Effect its Untapped Potential to Better Protect Democracy, the Rule of Law, and Fundamental Rights in the EU*, p. 4.

²¹ Laurent Pech, *The Concept of Chilling Effect its Untapped Potential to Better Protect Democracy, the Rule of Law, and Fundamental Rights in the EU*, p. 26.

ii. IMPLEMENTATION

Official requests were made to the ‘police’ and ‘law office’ (‘attorney general’s office’) to obtain information on the number of lawsuits filed in 2022 based on the aforementioned ‘legislation’ and their outcomes. According to the responses received from these ‘institutions’, between 01/01/2022, and 30/06/2022, a total of 13 criminal ‘cases’ were filed. Out of these ‘cases’, 8 were related to seditious conspiracy and publications with seditious intentions, 1 for advocating and encouraging unlawful association, and 4 for libel and slander offences. It should be noted that such ‘cases’ have become increasingly common, particularly following complaints from the leader of the Turkish Cypriot community. However, despite requests for information on ‘cases’ filed after this date, no further details were provided.

A lawsuit was filed against the President of the Journalists’ Union, Ali Kişmir, at the ‘Nicosia police department’ on 22/2/2022, on the allegation that he committed the crime of insulting and demeaning the moral personality of the ‘security forces’. An application made by the ‘prosecutor’s office’ to guarantee Ali Kişmir to be present in his ‘case’ to be tried in the future has been dated to 28/2/2022, but Ali Kişmir has not been secured since the ‘prosecutor’s office’ withdrew this request.

Yudum Mişon, former director of lotteries unit under the ‘prime ministry’, who published a post on his *Facebook* account, was brought before the ‘court’ (7/8/2022) on charges of insulting the leader of the Turkish Cypriot community and ‘office of the leader of the Turkish Cypriot community’. The ‘court’ ruled that the suspect would be tried without arrest, provided that one guarantor, a ‘citizen’, signs a bail bond worth 30 thousand Turkish Liras. Yudum Mişon’s mobile phone was also confiscated.²²

An individual named S.P was arrested for insulting on his own *Facebook* account leader of the Turkish Cypriot community Ersin Tatar. To ensure the suspect’s appearance for trial, it was decided that they would be tried without arrest, under the condition of a travel ban, weekly reporting to the nearest ‘police station’, and signing a bail bond of 70,000 Turkish Liras. Additionally, one guarantor, a ‘citizen’ was required to sign a bail bond worth 50,000 Turkish Liras. However, S.P could not fulfil these conditions and was sent to ‘prison’ without remand, for a period not exceeding 7 days.

Mine Atlı, president of the Communal Democracy Party (TDP), faced ‘legal proceedings’ following a complaint from the leader of the Turkish Cypriot community Ersin Tatar. She was ordered to be tried without arrest provided that one guarantor signs a bail bond worth 50 thousand Turkish Liras in order to ensure her presence at the trial.²³

Journalist Kazım Denizci faced ‘legal proceedings’ under suspicion of committing the offence of defending and promoting an illegal society after he shared the news published by the ANF Fırat news agency on the *Kıbrıs Radikal* news website and *Facebook* page. Kazım Denizci was banned from travelling abroad and it was ruled that he would be tried without arrest on the condition that he appears in ‘court’ once a month with a ‘citizen’ of signing a personal surety bond worth 200 thousand TL.²⁴ It is estimated that many similar ‘cases’ are on the agenda.

The trials of ‘cases’ filed at the Famagusta ‘district criminal court’ in 2017 for the offences of defending and promoting an illegal association under ‘section 57 of cap. 154 criminal code’, as well as possession of seditious and propaganda publications of an illegal association under ‘section 59’ of the same ‘law’, have not even started. The ‘lawsuit’ filed in 2018 pertaining to a song, which the ‘police’ deemed a publication of the same nature, is still ongoing as of December 2022. These prolonged durations exceed the right to be tried within a reasonable time. Moreover, the defendant has been restricted from travelling abroad during this period.

22 Suna Erden, ‘Cep telefonuna el kondu’ Diyalog Gazetesi (northern part of Cyprus, 08 August 2022) <https://www.diyaloggazetesi.com/kibris/cep-telefonuna-el-konuldu-h95450.html> accessed 17.01.2023.

23 Başyazı, ‘Mine Atlı Teminata Bağlandı’ Haber Kıbrıs (northern part of Cyprus, May 23, 2022). <<https://haberkibris.com/mine-atli-teminata-baglandi-1412-2022-05-23.html>> accessed on 17.01.2023

24 Başyazı, ‘Kazım Denizci Mahkemeye Çıkarıldı!’ Ses Kıbrıs, (northern part of Cyprus, 23 November 2022) <<https://www.seskibris.com/haber/12590937/kazim-denizci-mahkemeye-cikarildi>> accessed on 17.01.2023

2. CIVIL CONTENT RESTRICTIONS

i. ‘LEGISLATION’

Libel and slander are appropriately regulated as a civil remedy for which individuals may also sue for damages in addition to ‘criminal code’. Addressing ‘cases’ of libel and slander through civil remedies aligns more closely with human rights law, rather than allowing ‘political authorities’ to use them as means of punishment. In its 34th commentary on the implementation of the Covenant, the Human Rights Committee, the supervisory body of the United Nations Covenant on Civil and Political Rights, advised state parties to consider decriminalising defamation and when criminal sanctions are applied, to do so only in the most serious cases, with imprisonment never being an appropriate punishment in such cases.²⁵ ‘Section 17’ and subsequent ‘sections of cap.148 civil wrongs law’ regulate the torts of insult and defamation as well as the grounds for defence. In ‘cases’ of libel and slander, defences such as the truthfulness of the publication,²⁶ fair comment,²⁷ absolute privilege to publish the publication constituting libel and slander,²⁸ conditional privilege to publish the publication constituting libel and slander²⁹ and non-intentional libel and slander,³⁰ are explicitly outlined. These regulations are in line with the standards set by the ECHR.³¹

‘Law no. 32/2014’ on the protection of private life and protection of the secret sphere of the life and ‘law no. 89/2007’ on the protection of personal data are ‘laws’ that protect the right to privacy. However, filing civil lawsuits based on these ‘laws’ is not a method commonly used.

ii. IMPLEMENTATION

Libel and slander ‘cases’ are frequently brought before the ‘courts’, and the awarded damages generally do not exceed the limits that would infringe upon freedom of expression.

In the ‘case numbered 138/2011 (D.3/2012)’, the ‘the supreme court sitting as court of civil appeals’ provided the following statement regarding this matter: “First and foremost, it should be emphasized that the press enjoys freedom in this jurisdiction and has the freedom to gather and disseminate news. Nevertheless, it should not be overlooked that the dignity and reputation of individuals are also protected and are inviolable, and everyone has an obligation to respect them (**‘article 14. (4) of the constitution’**). When applying and interpreting the existing ‘legislation’, the ‘court’ is duty-bound to strike a balance between these two fundamental rights.” The ‘supreme court’ has considered the British law and judgments of the ECtHR while endeavouring to achieve this balance.

25 UNCHR, 102nd Session, General Comment No.34, para:47.

26 ‘cap. 148 civil wrongs law 1933 sec. 18. (a)’.

27 ‘cap.148 civil wrongs law 1933 sec. 18. (b)’.

28 ‘cap.148 civil wrongs law 1933 sec. 20’.

29 ‘cap.148 civil wrongs law 1933 sec. 21’.

30 ‘cap.148 civil wrongs law 1933 s. 22’.

31 *Drousiotis v. Cyprus* (2022) App. No: 42315/15.



RIGHT TO INFORMATION

i. 'LEGISLATION'

The right to information is recognised as an inherent aspect of the right to freedom of expression, although there is a lack of precise provisions in the ECHR or in the case-law of the ECtHR. This right encompasses the disclosure of information that the administration is obligated to provide to the public upon specific requests, subject to reasonable limitations.³² The right to access information can be asserted against the administration and generally extends to all information and documents held by the administration.³³

Although the '1975 constitution of the Turkish Federated State of Cyprus' and the '1985 constitution' do not explicitly regulate the right to information, the right to petition is addressed in 'article 63 of the constitution of the Turkish Federated State of Cyprus' and 'article 76 of the constitution'. According to 'article 76 of the constitution', which governs the right to petition, "petitions submitted to the 'administration' must be responded to within 30 days in a reasoned manner. If no response is provided, the petitioner has the right to seek 'judicial' recourse."

Another significant 'regulation' related to the subject is the 'law no. 12/2006' on the right to access information, which came into effect in 2006. The limitations outlined in the 'law' largely align with international standards.

'Section 15 of the law' establishes the 'access to information assessment board' responsible for making decisions regarding the exercise of the right to access information and reviewing objections lodged by applicants against the 'administration's refusal decisions'. However, concerns have been raised about the independence of the 'board' in terms of the image it presents, as one out of the five members is a 'prosecutor'. Since the 'attorney general's office' happens to be defending the 'administration' in 'cases' of violations of the right to access information filed against the 'administration', the independence of the 'board' raises questions. Moreover, the 'board' has not been given the duty or authority to impose additional structural measures on 'public authorities' that repeatedly fail to fulfil their obligations under the 'law', which leads to 'public authorities' often displaying reluctance in implementing the 'law'.

Apart from these, neither the 'access to information assessment board' nor any other 'public' body has been entrusted with the task of monitoring the implementation of the 'law on the right to access information' and identifying issues linked to its implementation and 'legislation'. This legal gap hinders the effective enforcement of the 'law'.

32 European Commission For Democracy Through Law, (Venice Commission) Compilation of Venice Commission Opinions and Reports Concerning Freedom of Expression and Media (2020). <[https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)008-e)>, p.8.

33 Can Azer, Bilgi Edinme Hakkı (first edition 2010), and p.62.

ii. IMPLEMENTATION

For a significant portion of the 'administration', there is a lack of established practice in responding to information requests.³⁴ As an illustration, on 09.08.2022, *Kıbrıs Gerçek* newspaper submitted an application to 'Eastern Mediterranean University (EMU)' and 'rector' Aykut Hocanın under the provisions of the 'law on access to information', seeking information about the diplomas of Turgay Avcı, the chairperson of the 'higher education planning, evaluation, accreditation and coordination council' ('YÖDAK'), which had garnered 'public' attention at the time of preparing this report. Despite the application explicitly requesting the release of Avcı's bachelor's, master's, doctorate, associate professorship, and professorship diplomas, as well as bachelor's and master's transcripts (course and grade transcripts), 'YÖDAK' failed to comply with this request during the reporting period.³⁵

As of December 2022, the establishment of a 'national' human rights institution remains pending. However, the 'ombudsperson' is empowered to investigate and report on human rights violations based on complaints or ex officio. In 2022, the 'ombudsperson' did not issue any reports specifically addressing freedom of expression.

According to the 'access to information assessment board', a total of 21 complaints were filed in 2022 concerning the right to access information. Out of these applications, 16 were ruled against the administration due to their failure to respond to the applicants. Four applications were rejected on the grounds of non-compliance with 'section 14 law on the right to access information'. As for the remaining one application, it was determined that the administration had provided a response, and the applicant was duly notified to collect the response from the relevant 'administrative body'.

4. INDEPENDENCE OF THE MEDIA

i. 'LEGISLATION'

The protection of journalists' right not to disclose their sources is a crucial aspect of maintaining public order. In the case of *Goodwin v. the United Kingdom*, the ECtHR emphasised that safeguarding journalists' news sources is essential for upholding press freedom, and such disclosure can only be demanded when there is an overriding public interest.³⁶ However, in the northern part of Cyprus, the protection of journalists' right not to reveal their sources does not align with the conditions set by the ECtHR for exercising this right. There is no 'legislation' in place to specifically address the protection and safety of journalists and other media professionals, including the safeguarding of their sources from disclosure.

In the case of *Fuentes Bobo v. Spain*, the ECtHR highlighted the connection between pluralism, editorial independence, and the responsibility of the state to ensure the safety of journalists, emphasising the need for legal measures in this regard.³⁷

'Law no. 44/2007 on press labour' was enacted in 2007 to regulate working conditions and labour relations between employees and employers in the press sector. This 'law' grants journalists the right to refuse assignments or reject requests when they are compelled to produce content, news, programs, commentaries, and such that contradict universal journalistic principles or may compromise the integrity of the journalism profession or when they need to defend opinions they do not believe in.³⁸ However, many journalists have long expressed concerns over the inadequate implementation of 'law no. 44/2007 on press labour'.³⁹

34 <https://haberkibris.com/esendagli-kamu-gorevlisini-cezai-anlamda-sahsen-sorumlu-kilacak-1227-2023-04-03.html> access, 03/04/2023.

35 Başyazı, 'Gazetemiz DAU'ye Yüksek İdare Mahkemesi'nde Dava Açıyor!', *Kıbrıs Gerçek*, (northern part of Cyprus, 14 September 2022) <<https://kibrisgercek.com/gazetemiz-dauye-yukse-idare-mahkemesinde-dava-aciyor/>> accessed 17.01.2023.

36 *Goodwin v. the United Kingdom* (1990) App. No. 17488/90.

37 *Fuentes Bobo v Spain*, (2000) App. No. 39293/98.

38 'law no 44/2007 on press labour law' 2007 sec. 24.

39 https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n96688-kktcde-gazetecilik-bakin-nasil-yapiliyor, *Kıbrıs Postası* (northern part of Cyprus), accessed 23/2/2023, <https://ombudsman.gov.ct.tr/BA%C5%9EVURU-RAPORLARI/ombudsman-emine-dizdar%C4%B1-k%C4%B1r%C4%B1s-t252rk-gazeteciler-birli%C4%9Fi-ve-bas%C4%B1n-emek23liler160-sindikas%C4%B1n%C4%B1n-raporunu-yay%C4%B1nla%C4%B1>, access 23/2/2023.

As in other fields of employment, employees in the press sector are required to provide notice to their employers before resigning from their positions to avoid potential obligations to pay compensation. However, in accordance with the ‘law on press labour’, journalists employed in the writing/publishing department, including news and commentary units, may leave their duties without notice. In such instances, journalists are not obligated to pay any compensation to their employers, as they are not bound by the requirement of giving 1 to 6 weeks notice. This right may be exercised in the following circumstances:

1. Pressure and/or interference and/or censorship imposed by organisations or political groups and/or;
2. Journalists threatened and/or harassed and/or;
3. Being coerced into distorting the news, to promote personal, organisational or political interests, or engaging in gender-based discrimination;
4. A change in the editorial policy and principles of the workplace that compromises the journalist’s honour, dignity and/or moral interests.⁴⁰

Furthermore, in the event that a journalist exercises their right to leave without notice under the aforementioned circumstances, they are entitled to receive compensation equivalent to 1 to 6 weeks’ salary.⁴¹ While this regulation may be deemed suitable, it cannot be claimed that it offers journalists adequate protection against censorship.

Moreover, the right to professional refusal is afforded greater protection than the right to be free from censorship. Journalists hold the right to reject any demand, regardless of the hierarchical level within the workplace, which contradicts the universal principles of journalism or compromises the integrity of the profession. They also have the right to defend opinions they do not believe in, even if it violates their employment contract.⁴² Service contracts of journalists who exercise their right of professional refusal cannot be terminated solely for exercising this right.⁴³ In the event of such a termination, the journalist whose contract of service is terminated is entitled to receive compensation five times greater than the normal rate.⁴⁴ In addition, in the event of a legal dispute, the employer bears the burden of prove that the journalist’s dismissal was not due to exercising their right of professional refusal.⁴⁵

No ‘legislation’ specifically addressing the ethical conduct of journalists has been enacted. Many press organisations and professionals are opposed to the introduction of such ‘legislation’ due to concerns that it could potentially lead to censorship or control of the ‘authorities’ over the media. In 2013, the ‘Media Ethics Committee’ was established under the leadership of the Union of Journalists, along with the participation of various organisations including the Turkish Cypriot Sports Writers Association, the Association of News Cameramen, the Turkish Cypriot Cartoonists Association, and ‘Bayrak Radyo ve Televizyon Kurumu’ (‘BRTK’) Employees Union. The ‘media ethics committee’ finalised the ‘media ethics committee declaration’, which had been prepared earlier.⁴⁶ The ‘committee’ is empowered to take action in response to complaints or ex officio, and it has the authority to issue warnings or reprimands to individuals who fail to adhere to the attached code of professional journalism. Warnings and reprimands that are deemed justified by the ‘committee’ are to be published by all media organisations that have endorsed the ‘media ethics committee declaration’. If a media organisation fails to comply with this obligation, the ‘committee’ issues a warning to the relevant organisation. In the event of repeated non-compliance, the ‘committee’ may issue a condemnation.⁴⁷

40 ‘44/2007 law on press labour 2007 sec. 23 (4)’.

41 ‘44/2007 law on press labour 2007 sec. 23 (5)’.

42 ‘44/2007 law on press labour 2007 sec. 24 (1)’.

43 ‘44/2007 law on press labour 2007 sec. 24 (2)’.

44 ‘44/2007 law on press labour 2007 sec. 24 (3)’.

45 ‘44/2007 law on press labour 2007 sec. 24 (4)’.

46 ‘Media Ethics Board, ‘History (Media Ethics Board)’ <<http://medyaetikurulu.org/wordpress/index.php/hakkimizda/tarihce-2/>> accessed 17.02.2022

47 Media Ethics Board, ‘Declaration of the Media Ethics Board’ (Media Ethics Board). <<http://medyaetikurulu.org/wordpress/index.php/medya-etik-kurulu-deklerasyonu>> accessed 17.02.2023.

As of December 2022, no ‘legislation’ has been enacted to regulate equal access to radio and television broadcasts for different segments of the population, particularly minority groups, or to enhance the representation of minority groups in television and radio programming. However, broadcasting principles outlined in ‘section 5 of law no. 39/1997’ on the establishment and broadcasting of public and private radios and televisions’ specify that a minimum of 50% (fifty per cent) of broadcasting time should be allocated to domestic productions, excluding time dedicated to news, sports programs, and advertisements in non-thematic broadcasts.⁴⁸ At first glance, this principle may not appear to effectively amplify the voice of minority groups. However, considering the active presence of the Turkey’s media in the northern part of Cyprus, it is an important ‘regulation’ that provides an opportunity for minority groups in the region to have their voices heard. Nonetheless, the practical implementation of this rule falls short, and as a result, the intended purpose of the ‘law’ remains unfulfilled. Additionally, it is also specified as a broadcasting principle that broadcasts should adhere to democratic standards and avoid any content that could undermine equal opportunities between organisations, groups, and political parties with differing opinions.⁴⁹

In order to enforce the aforementioned principles, the ‘YYK’ is empowered to issue warning penalties and impose administrative fines, which can reach a maximum of 1.5 times the minimum wage, on broadcasters who violate the broadcasting principles.⁵⁰ However, in practice, there have been no instances where the ‘YYK’ has exercised this authority.

Private radio and television organisations are established as limited liability companies in accordance with the rules laid down in the ‘companies law’.⁵¹ The ECtHR has also emphasised that the licensing system’s regulatory power of ‘public authorities’ should only be used for technical purposes and should not interfere with freedom of expression in violation of the limitations set in article 10 of ECHR.⁵² However, despite these considerations, an amendment was made in 2022 to ‘law no. 37/1997’ on the establishment and broadcasting of public and private radio and television stations, which prohibits political parties, trade unions, foundations, associations, chambers, professional associations, ‘municipalities’, and cooperatives from becoming partners in any broadcasting company. Instead, these organisations are only allowed to establish and broadcast internet TV and internet radios⁵³ within the framework of their duties, fields of activity, and objectives, limited to informative and educational broadcasts. This ‘legal regulation’ not only goes against the principle of plurality of voices, which is essential for freedom of expression, but it also introduces unpredictability and grants the licensing ‘authority’ the power to take arbitrary decisions.

In the case of *Manole and Others v. Moldova*,⁵⁴ the ECtHR emphasised the importance of a legal framework that guarantees the editorial independence and institutional autonomy of public broadcasting organisations. It highlighted the need to prevent political interference in the appointment of board members and supervisory bodies, and the importance of legislation promoting the impartiality of information programs to foster the free formation of opinions.

In the context of the northern part of Cyprus, the ‘public service’ broadcasting organisations are ‘BRTK’ and ‘Turkish Agency Cyprus (TAK)’. On the other hand, the ‘YYK’ oversees the compliance of radio and television stations with the broadcasting principles outlined in ‘law 37/1997’ on the establishment and broadcasting of ‘public’ and private radio and television stations.

48 ‘37/1997 law on establishment and broadcasting of public and private radios and televisions 1997 sec.5. (32)’.

49 ‘37/1997 law on establishment and broadcasting of public and private radios and televisions 1997 sec. 5. (33)’.

50 ‘37/1997 law on establishment and broadcasting of public and private radios and televisions 1997 sec. 43. (1). (C)’.

51 ‘37/1997 law on establishment and broadcasting of public and private radios and televisions 1997 sec.36. (1). (B)’.

52 Monica Macovei, *Freedom of Expression: Guidelines on the Application of Article 10 of the European Convention on Human Rights*. <<https://rm.coe.int/168007f448>>, p.13.

53 *Manole et al. v. Moldova* (2002) App. No. 13906/2002.

54 *Manole vd. v. Moldova* (2002) App. No.13906/2002.

Two members of the 'BRTK board of directors' are appointed by the 'council of ministers', one member is appointed by the 'security forces command', one member from the organisation with the highest number of members representing the employees of the 'institution' and one member from the organisation with the highest number of members consisting of members of the media. In addition, one member is appointed by the board of trustees of 'EMU', usually the 'rector' or one of the 'vice rectors', and the 'BRTK Director' is appointed by the decision of the 'council of ministers'⁵⁵ as member of 'BRTK board of directors'.⁵⁶ The chairperson and members of the 'board of trustees' of the 'Eastern Mediterranean university (EMU)', responsible for appointing one member to the 'BRTK board of directors', are appointed by the leader of the Turkish Cypriot community upon the proposal of the 'council of ministers' for a term of 6 years.⁵⁷

In line with the aforementioned legal arrangement, the dominant majority of 'BRTK's management' is appointed through political channels, which raises questions about their independence. Additionally, the presence of a representative from the 'security forces command' on the 'BRTK board of directors' gives the 'institution' a militaristic appearance.

'BRTK' generates its revenues through various sources, including advertisements and commercials aired on radio and television, entrance fees to concerts and performances or similar programmes organised by the 'institution', sales of publications such as books, magazines and records, profits from commercial and economic transactions undertaken through radio and television, as well as donations received.⁵⁸ However, the generated revenues are insufficient to cover the deficit in the operational expenditures, and as a result, the 'institution' receives significant contributions⁵⁹ from the budget each year.⁶⁰ This reliance on budget funding raises concerns about the financial independence of 'BRTK'.

Despite the significant criticisms levelled against 'BRTK' for being perceived as a mouthpiece of the 'government', no penalties were imposed on the organisation by the 'YYK' in 2022.⁶¹

Composed of 7 members, the 'board of directors of TAK' includes 'director of the 'agency', the 'director of BRTK', two members to be appointed by the leader of the Turkish Cypriot community, two members to be appointed by the 'council of ministers', one member to be selected by the main opposition party represented in the 'parliament', one member to be appointed from among its own members by the authorised trade union with the highest number of members where 'TAK' employees are organised, and one member to be appointed from among its own members by the professional organisation with the highest number of yellow press card holders.⁶²

The 'director of TAK' is appointed by the leader of the Turkish Cypriot community upon the proposal of the 'council of ministers'.⁶³ As can be seen, in line with the aforementioned 'legal' arrangements, the dominant majority of 'TAK management' is politically appointed and far from being independent.

'TAK's' revenues consist of the contribution made to the 'agency' from the budget every year, service revenues from domestic and foreign subscribers, revenues from publications such as books, magazines, etc. published by the 'agency', and royalties from the materials to be produced by the 'agency'.⁶⁴

A significant portion of 'TAK's' income is covered by the budget. This shows that 'TAK' does not have financial independence.

All appointments made to 'YYK' are also of political nature and do not convey the impression of an independent board.⁶⁵ Although the budget of the 'YYK' is not funded by the budget,⁶⁶ the fact that the budget requires approval from the 'parliament' and that expenditures are subject to such approval raises concerns on its economic independence.⁶⁷

55 '50/1983 law on Bayrak radio and television corporation, 1983 sec.12. (1)'.
56 '50/1983 law on Bayrak radio and television corporation, 1983, sec.8'.
57 '18/1986 law on the establishment of Eastern Mediterranean 'university' 1986, sec.5. (2)'.
58 '50/1983 law on Bayrak radio and television corporation, 1983, sec. 29. (1)'.
59 'BRT'nin 245 milyon TL 2022 yılı bütçesi 10'uncu ayda onaylanıyor., Yenidüzen newspaper (northern part of Cyprus 6 October 2022' <https://www.yeniduzen.com/btrtnin-245-milyon-tl-2022-yili-butcesi-10uncu-ayda-onaylaniyor-157065h.htm> (accessed 16/02/2023)).
60 '50/1983 law on Bayrak radio and television corporation, 1983, sec.30.(3)'.
61 Başyazı, 'KTGB BRT'yi toplumun sesine kulak vermeye çağırıyor' (Bayrak Radio and Television Corporation, 2 July 2022) < <https://brtk.net/ktgb-brtyi-toplumun-sesine-kulak-vermeye-cagirdi/> accessed 17.01.2023.
62 '41/2011 law on (establishment, duties and working principles of) Turkish agency Cyprus, 2011 sec. 7. (1)'.
63 '41/2011 law on (establishment, duties and working principles of) Turkish agency Cyprus, sec.11. (1)'.
64 '41/2011 law on (establishment, duties and working principles of) Turkish agency Cyprus, 2011 sec.53. (1)'.
65 '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997 sec.8'.
66 '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997 sec.5.(1)'.
67 '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997 sec.15.(2)'.
68 'What is a Whistle-blower?' (National Whistle-blower Centre, 2013) <https://www.whistleblowers.org/what-is-a-whistleblower> accessed 16/01/2023.
69 Guide on Article 10 of the European Convention on Human Rights, Freedom of expression, p.70 (Council of Europe, 2022) https://echr.coe.int/Documents/Guide_Art_10_ENG.pdf, accessed 16/01/2023.
70 Attorney General's Office and Ulus Matbaacılık [1998] 'Consolidated Criminal Appeal 47-48/98, D.1/2001'



In the context of safeguarding freedom of expression, it is crucial to provide protection for whistle-blowers. Whistle-blowers are individuals who typically have insider knowledge of misconduct occurring within an organisation, although it is not a requirement for them to be insiders. The key aspect is their disclosure of information about wrongdoing that would otherwise remain unknown.⁶⁸ The ECtHR has underscored the importance of enacting legislation to protect whistle-blowers, citing Resolution 1729/2010 of the Parliamentary Assembly of the Council of Europe and Recommendation (2014)7 of the Committee of Ministers of the Council of Europe.⁶⁹

There is currently no 'regulation' in place to protect whistle-blowers under the current 'legislation' of the northern part of Cyprus. This lack of protection places undue pressure on journalists and 'citizen' journalists. While many news reports by journalists serve the public interest, they may sometimes come into conflict with the 'law' on the protection of private life and protection of the secret sphere of the life. As a result, journalists are frequently subjected to prosecution by the 'police', held in custody by the 'court', and placed under travel bans, pending the outcome of their 'cases'. Such practices undoubtedly have a chilling effect on freedom of expression. Lawsuits filed in this regard often remain unresolved for extended periods of time. For instance, the lawsuit filed in June 2021 against three journalists working for *Yeni Bakış* newspaper, pertaining to the disclosure of private life in relation to reporting on irregularities concerning the distribution of 'citizenships', has yet to reach a conclusion as of December 2022.

Similarly, the lawsuit filed in November 2020 against 2 individuals who filmed a 'public official' watching pornographic videos while on duty at the 'provident fund department' and made it 'public', has yet to reach a conclusion as of December 2022; the 'court' proceedings are still ongoing.

'Legislation' to protect freedom of the press, including the decriminalisation of libel and slander, has not yet been enacted. However, if criminal proceedings are initiated in this regard, the 'courts' are required to decide in accordance with 'supreme court judgements', taking into account the ECHR.⁷⁰

Another crucial aspect to address in order to safeguard the independence of the media is the establishment of a human rights institution that adheres to the Paris Principles. Such an institution would play a pivotal role in promoting human rights, including freedom of expression, and ensuring pluralism within society.

68 'What is a Whistle-blower?' (National Whistle-blower Centre, 2013) <https://www.whistleblowers.org/what-is-a-whistleblower> accessed 16/01/2023.
69 Guide on Article 10 of the European Convention on Human Rights, Freedom of expression, p.70 (Council of Europe, 2022) https://echr.coe.int/Documents/Guide_Art_10_ENG.pdf, accessed 16/01/2023.
70 Attorney General's Office and Ulus Matbaacılık [1998] 'Consolidated Criminal Appeal 47-48/98, D.1/2001'

ii. IMPLEMENTATION

As of December 2022, the media landscape in the northern part of Cyprus consists of 8 daily print newspapers, over 10 digital newspapers, 22 private radio stations,⁷¹ 'BRTK's' television broadcasting with 2 channels and 10 private television channels.⁷² The 'public' has access to a wide range of radio and television broadcasts. However, there is no public support for the broadcasting of ethnic, linguistic or religious minority groups. 'BRTK', through its radio channels, broadcasts news in Turkish, English, Greek, German, French, Russian and Arabic. There are also English and Greek news programmes available on television. Moreover, 'BRTK' operates a radio channel continuously broadcasting in English.

One of the most pressing issues regarding the safeguarding of media independence is the lack of adequate accountability and legal action taken, even after five years, against those responsible for the large group attack on *Avrupa* newspaper (previously known as *Afrika*) that occurred on 21 January 2018. Despite the presence of evidence identifying more than 14 individuals as being directly involved in the incident, only 7 attackers have been sentenced thus far. Surprisingly, no charges have been filed against those known to the 'police' to have primary responsibility for the attack. Furthermore, there has been a notable absence of resignations or disciplinary actions within the 'police force', despite their direct responsibility for not preventing the incidents from taking place.

Press workers also face the issue of unpaid social insurance, which has been highlighted in a report published by the 'ombudsperson' in 2018. The report revealed that numerous media organisations are consistently late in making social insurance contribution payments to their employees. Shockingly, some media organisations were found to be lacking proper employer registrations with the 'social security department' and the 'reserve fund'. In two newspapers, employees were identified who were not even registered with the appropriate 'authorities'. These findings indicate a failure on the part of the 'labour office' to effectively monitor and supervise the situation in order to protect the rights of press workers as mandated by the 'law' on press labour. The report emphasises that due to the lack of timely inspections, many press employees have been unable to exercise their legal rights and receive the entitlements they deserve until the issues with their 'social insurance' premiums are rectified, resulting in significant victimisation.⁷³ The same problems persisted in 2022, and in addition to these challenges, these individuals also encountered difficulties in obtaining press cards from the 'press card commission'.

Apart from these, the following important developments took place in 2022, 5 criminal 'cases' were filed against the newspaper *Avrupa* for its publications against Turkish President Recep Tayyip Erdoğan.

Due to his broadcasts, Serhat İncirli's position at Kanal T was terminated and his contract at 'EMU', where he was lecturing, was terminated.

In 2021, the chairperson of the Union of Journalists, Ali Kışmir, the former leader of the Turkish Cypriot community Mustafa Akıncı's press advisor, Ali Bizden, and writer Ahmet An were denied entry into Turkey. Similarly, in 2022, journalists Aysu Basri Akter and Başaran Düzgün, as well as writer Münür Rahvancıoğlu, Deputy Secretary General of the socialist organization Independence Path, also faced the same restriction.

Journalist Rasih Reşat resigned from the chairperson position and membership of the Foreign Press Association following a complaint filed by the leader of the Turkish Cypriot community Tatar and based on "the necessity perceived by the complaint authority" in response to a column he had written.⁷⁴

⁷¹ <https://pio.mfa.gov.ct.tr/radyo-kanallari/> (last accessed 16/02/2023).

⁷² <https://pio.mfa.gov.ct.tr/tv-kanallari/> (last accessed 16/02/2023).

⁷³ Emine Dizdarlı, 'Ombudsman Emine Dizdarlı KTGB ve Basın-Sen Raporunu Yayınladı' (Ombudsman, 31 May 2018) <<http://ombudsman.gov.ct.tr/BA%C5%9EVURU-RAPORLARI/ombudsman-emine-dizdarli-c4%b1-k-c4%b1r-c4%b1s-t252rk-gazeteciler-birli-c4%9fi-ve-bas-c4%b1n-emek23lileril60-sindikac-c4%b1n-c4%b1n-raporunu-yay-c4%b1lad-c4%b1>> accessed on 17.01.2023.

⁷⁴ Başyazı, 'Rasih Reşat Dış Basın Birliği Başkanlığı ve Üyelüğünden İstifa Etti', Kibris Postası, (northern part of Cyprus), 26 April 2022 <https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n420350-rasih-resat-dis-basin-birligi-baskanligi-ve-uyeliginden-istifa-etti> accessed 17.01.2023.

After being dismissed from his job at *Kuzey Kıbrıs TV*, journalist Ulaş Barış wrote on his *facebook* account on 13/6/2022: "Friends, thank you for your messages of support. The situation is simple. "Someone" wanted it, the institution I work for had to terminate my job, I am absolutely not upset with them. Every end means a new beginning. I will continue to speak up. See you soon" summarised his experiences. In the relevant period, Ulaş Barış was opposing 'draft (amendment) law on chapter 154 criminal code', the 'draft (amendment) law' on seditious publications, the 'draft (amendment) law' on protection of private life and privacy', which would regress press freedom.

The online newspaper *Kıbrıs Tercüman* made threats of violence against Ali Kışmir, chairperson of the Union of Journalists, and Serhat İncirli, columnist at *Yenidüzen* newspaper and programme producer of *SİM TV*.⁷⁵

While these developments were unfolding, it became a part of daily life that people who criticised the leader of the Turkish Cypriot community and politicians in the 'government' on social media were subjected to investigations and criminal 'cases' were opened against them.

5. PRINT MEDIA

i. 'LEGISLATION'

Newspapers are obliged to submit a declaration and guarantee prior to their printing and publication.⁷⁶ The declaration, signed under oath by the designated newspaper owner, includes details such as the newspaper's full name, the printing address, the names and addresses of each owner, the language of publication, the publication frequency, and advertising fees. In case this information changes, the 'ministry of interior' must be notified within 3 days.⁷⁷ It is worth noting that the penalty of imprisonment for up to one year⁷⁸ for non-compliance with these rules is considered severe and falls short of international human rights standards.

Another important issue, the right of correction and reply, is a right regulated in 'article 31 of the constitution'. Regulations have been put in place on how to exercise the right of correction and reply in radio and television broadcasts. Other types of publications, such as print media or social media, are not regulated.⁷⁹

ii. IMPLEMENTATION

Although the right of correction and publication is regulated as a 'constitutional' right, it is difficult to say that it is used much in practice.⁸⁰

⁷⁵ Serhat İncirli, 'Kışmir'in de benim de videomuz yok, videosu olanlar korksun' Yeni Düzen, (northern part of Cyprus), 23 December 2023 <<https://www.yeniduzen.com/kismirin-de-benim-de-vid-eomuz-yok-videosu-olanlar-korksun-19976yyhtm>> accessed 17.01.2023.

⁷⁶ cap. 79 press law 1947 sec.3.1. (a) and 31(b).

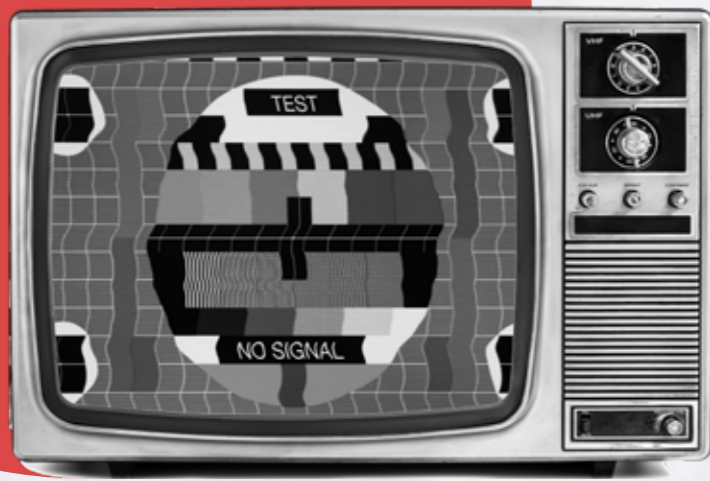
⁷⁷ cap. 79 press law 1947 sec.4. (a).

⁷⁸ cap. 79 press law 1947 sec.3. (6).

⁷⁹ '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997, sec.35', and '50/1983 law on Bayrak radio and television corporation, 1983, sec. 23'.

⁸⁰ The personal opinion of the author who is constantly litigating on 'Press Law'.





6. RADIO AND TELEVISION BROADCASTING

i. 'LEGISLATION'

As previously mentioned, the composition of the 'YYK', the institution authorised to grant "broadcasting licences" in relation to radio and television broadcasting, raises concerns about its independence. Furthermore, the restriction on political parties, trade unions, foundations, associations, chambers, professional organisations, 'municipalities' and cooperatives from engaging in broadcasting on radio and television is another problematic situation that should be underlined in terms of freedom of expression.

According to the 'legislation', without prejudice to 'court orders', broadcasts may not be inspected or suspended in advance.⁸¹ There is no specific provision for the suspension of radio and television broadcasts other than the general powers of 'courts' to issue interim orders. According to the 'case law', 'courts' are expected to exercise these powers in a very limited manner.⁸²

Although no institution is authorised to stop broadcasting, the 'law on elections and referendum' imposes restrictions on radio and television broadcasting during the referendum and election periods to ensure the democratic conduct of elections.⁸³ However, until 19.00 pm on the day of the election or referendum, it is prohibited for public radios and all broadcasting organisations to broadcast news, predictions and comments on the election, referendum and its results.⁸⁴ Between 19.00 pm and 21.00 pm, public radios may only broadcast news and communiqués issued by the 'supreme board of election' ('YSK').⁸⁵ After 21.00 pm, all broadcasts shall be free from such restrictions.⁸⁶

'Directors', 'officers' and 'officials' of the 'public' and 'public-owned enterprises', 'public subsidiaries', 'public legal entities' and 'public institutions' and organisations, local 'institutions' and their affiliated 'departments', establishments and partnerships and organisations with 'public' legal personality, and their 'officers' can be held accountable for committing offences in the following 'cases' and, if convicted, shall be liable to a fine up to twice the minimum wage or imprisonment up to two years or both.

- a. Engaging in work that cannot be done during the election⁸⁷ and
- b. Failure to comply with the prohibitions of the ceremonies⁸⁸ instructing and/or violating the rules of the aforementioned 'sections'

Undoubtedly, these offences can also be committed through radio and television broadcasts. The 'YSK' has the authority to instruct relevant organizations to cease broadcasting in violation of the 'law on elections and referendums'. Failure to comply with such a request constitutes an offence, and upon conviction, individuals may be subject to a fine of up to three times the minimum wage, imprisonment for up to one month, or both.⁸⁹

81 '37/1997 law on establishment and broadcasting of public and private radios and televisions, section 33'.

82 Gülhan Alp v Poli Investment Ltd, Havadis Newspaper and others [2011] Court of Civil Appeal No. 138/2011, D. No. 3/2012.

83 '5/1976 law on elections and referendum 1976 sec. 68, 69, 70, 71 (A), 80'.

84 '5/1976 law on elections and referendum 1976 sec.104. (1)'.

85 '5/1976 law on elections and referendum 1976 sec.104. (2)'.

86 '5/1976 law on elections and referendum 1976 sec.104. (3)'.

87 '5/1976 law on elections and referendum 1976 sec. 79'.

88 '5/1976 law on elections and referendum 1976 sec. 80'.

89 '5/1976 law on elections and referendum 1976 sec. 170'.

ii. IMPLEMENTATION

In the 2021 elections for the leader of the Turkish Cypriot community, Meryem Özkurt, the 'director of BRTK', received a 2-month imprisonment sentence for broadcasting in favour of Ersin Tatar during the election propaganda period, in violation of the election bans. This 'case' attracted significant attention in public opinion. Although the 2-month imprisonment sentence imposed by the Nicosia 'district court' was appealed, the 'supreme court' did not overturn the imprisonment sentence. In its decision, the 'supreme court' emphasised that it is in the public interest to ensure that the election process is carried out in an orderly, correct, honest, impartial and secure manner. Despite implications made by the 'director of BRTK' regarding certain politicians' encouragements of such broadcasts, no 'official' complaint was filed against them.⁹⁰

Although the 'supreme court' ruled in this direction, 'BRTK' was not penalised for violating the broadcasting principles regulated in the 'law 37/1997' on the establishment and broadcasting of public and private radio and television channels'.⁹¹

7. MEDIA DIVERSITY

i. 'LEGISLATION'

There are no significant 'regulations' in the 'legislation' for the protecting of media diversity. On the other hand, the 'national' education system lacks a comprehensive policy on education for all, including a human rights curriculum and "active learning". There is a lack of specific 'legislation' addressing war propaganda, and the 'authorities' or civil society have not adequately discussed this issue either. In terms of hate speech 'regulations', only hate speech targeting gender, sexual orientation, or gender identity is addressed under the category of libel and slander. It is important to note that this 'regulation', which was initially introduced in 2014 and amended in 2020, does not encompass advocating 'national', racial, or religious hatred, thus not fully aligning with contemporary human rights standards.

ii. IMPLEMENTATION

Although the Turkish Cypriot 'authorities' place adverts in 'national' newspapers, the opposition *Avrupa* newspaper hardly benefits from them. It is worth noting that the survival of many newspapers depends on such advertising.

8. 'PUBLIC' BROADCASTING

i. 'LEGISLATION'

Organisations that have been granted a terrestrial radio and television broadcasting license are mandated to ensure that their coverage reaches at least 75% of the geographical area of northern part of Cyprus within a year from the license issuance date. Furthermore, they are obliged to broadcast for a minimum of 12 hours each day, without resorting to shared or alternating broadcasts.⁹²

In accordance with the 'law no. 50/1983' on 'BRTK', 'BRTK' is required to maintain impartiality in its broadcasts.⁹³ Additionally, among the principles that 'BRTK' must adhere to, as highlighted above, is the facilitation of the establishment and development of democratic, secular, and rule of law state principles grounded in human rights within society.⁹⁴

90 Editorial, 'BRTK director Meryem Özkurt'a 2 Ay Hapis Cezası!' Kıbrıs Postası, (northern part of Cyprus), 7 June 2022 <https://www.kibrispostasi.com/c57-Adli_Haberler/n425660-brtk-muduru-meryem-ozkurta-2-ay-hapis-cezasi> accessed 17.01.2023.

91 '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997 sec. 5'.

92 '37/1997 law on establishment and broadcasting of public and private radios and televisions, 1997, sec. 27. (1)'.

93 '50/1983 law on Bayrak radio and television corporation, 1983, sec.4'.

94 '50/1983 law on Bayrak radio and television corporation, 1983, art.4. (2)'.

As previously noted, the 'BRTK's' budget is significantly lacking in independence.

The revenues of the 'YYK' are sourced from the services it offers and fines collected under the auspices of the 'law'.⁹⁵ In a similar vein, 'TAK's' revenues are derived from annual contributions provided to the 'agency' from the budget, in addition to the services it delivers.⁹⁶

The fact that the accounts of all three 'institutions' are approved by the 'parliament' raises concerns about budget independence.⁹⁷ In addition, the budgets of all three 'institutions' are subject to audit by the 'office of audit'

ii. IMPLEMENTATION

'BRTK' is an 'institution' with very low accountability. Nonetheless, the 'YYK' oversees 'BRTK's' public service broadcasting, its independence and impartiality, and its adherence to the principles of democratic, secular and rule of law state and human rights-based broadcasting. 'YYK' also oversees whether 'BRTK's' broadcasting is in line with the requirements set forth in 'section 5 of the law 37/1997' on establishment and broadcasting of public and private radio and television channels, along with other broadcasting principles.

9. DIGITAL RIGHTS

i. 'LEGISLATION'

The 'law' on electronic communications enshrines fundamental principles⁹⁸ that promote accessible and affordable electronic communication networks and services.⁹⁹ It emphasises the importance of considering the specific needs of handicapped¹⁰⁰ individuals, the elderly, and socially vulnerable groups, ensuring their inclusion in technological advancements. Moreover, the 'law' aims to create a free and competitive environment,¹⁰¹ provide comprehensive electronic communication services 'nationwide',¹⁰² and safeguard consumer rights and interests.¹⁰³

Although there is no specific 'legal' protection for freedom of expression on the internet, 'court' judgments have recognised the 'constitutional' and ECHR safeguards for freedom of expression in online broadcasting.¹⁰⁴ The ECtHR has acknowledged the internet's pivotal role as a primary tool for exercising freedom of expression and accessing information.¹⁰⁵

The act of violating the confidentiality of communication through social media is defined as a criminal offense, which can result in imprisonment.¹⁰⁶ Listening to and recording private conversations between persons using electronic devices, disseminating or disclosing them through social media is also considered a punishable offence that can lead to imprisonment.¹⁰⁷ Furthermore, under the offence of violation of the privacy of private life, disclosing private images or sounds through social media,¹⁰⁸ disclosing private recordings through social media,¹⁰⁹ or disseminating a disclosed recording¹¹⁰ is also a punishable offence that can lead to imprisonment.

As of December 2022, there is no existing 'legislation' regarding the online "right to anonymity," which is crucial for the unrestricted exercise of freedom of expression without facing repercussions. Additionally, no specific 'legislation' has been enacted concerning the "right to be forgotten",¹¹¹ which pertains to the ability of individuals to request the removal of certain information from search engine results associated with their name under specific circumstances.

⁹⁸ '6/2012 law on electronic communications, 2012, art.13. (8)'.
⁹⁹ '6/2012 law on electronic communications, 2012, art.13. (4)'.
¹⁰⁰ Although the terms "person with disabilities" or "person with special needs" are used instead of the term "handicapped" in the terminology of human rights law, the term "handicapped" is preferred above given the fact that the term "handicapped" is still used in the relevant 'law'.
¹⁰¹ '6/2012 law on electronic communications, 2012, sec.13. (1)'.
¹⁰² '6/2012 law on electronic communications, 2012, sec.13. (2)'.
¹⁰³ '6/2012 law on electronic communications, 2012, sec.13. (3)'.
¹⁰⁴ 'constitutional court' 11/2020 (D.4/2020).
¹⁰⁵ Ahmet Yildirim v Turkey (2012) ECHR App No 3110/2010.
¹⁰⁶ '32/2014 law on the protection of private life and privacy, 2014 sec. 5'.
¹⁰⁷ '32/2014 law on the protection of private life and privacy, 2014 sec. 6'.
¹⁰⁸ '32/2014 law on the protection of private life and privacy, 2014 sec. 15 (3)'.
¹⁰⁹ '32/2014 law on the protection of private life and privacy, 2014 sec.15. (4). (A)'.
¹¹⁰ '32/2014 law on the protection of private life and privacy, 2014 sec.15. (4). (B)'.
¹¹¹ Editorial, 'Policy Brief: The Right to be Forgotten' (Article 19, 29 March 2022). < <https://www.article19.org/resources/policy-brief-the-right-to-be-forgotten> > accessed 17.01.2023.

ii. IMPLEMENTATION

As of the end of the third quarter of 2022, there were 289,840 fixed broadband internet subscribers¹¹² and 395,000 smartphone and tablet users.¹¹³ According to the response given as a result of our information request dated 16 January 2023 to the 'information and communication technologies authority', approximately 99% of the population in the northern part of Cyprus is covered by the mobile network (2G and 3G). The fixed broadband penetration rate is 40.3% and the mobile penetration rate is 105.1%. As of the third quarter of 2022, approximately 34.8% of fixed broadband subscribers preferred 10 Mbit/s speed, followed by 29.7% of subscribers who preferred speeds above 10 Mbit/s. Among the remaining subscribers, 19.3% preferred 5 Mbit/s speed, 5% preferred 5 to 10 Mbit/s speed and 8.5% preferred speeds of 4 Mbit/s and below.

In 2022, the 'information and communication technologies authority' received 'court' decisions to block access to a total of 3015 URL addresses. Out of these addresses, with the exception of 14, all the blocked sites were found to be engaged in illegal virtual betting and/or economic fraud activities.

10. CIVIL SOCIETY ORGANISATIONS CONCERNED WITH FREEDOM OF EXPRESSION

The Press Workers Union, the Union of Journalists, the Human Rights Platform and its member organisations, education and, as well as certain 'public sector' trade unions are proactively involved in significant efforts to uphold freedom of expression. Infringements of freedom of expression frequently stem from lawsuits lodged against individuals. The 'ombudsperson' is an 'institution' with constrained powers in matters related to freedom of expression. This limitation arises from the 'constitution' and the 'law' on the 'ombudsperson', which do not assign the 'ombudsperson' with the authority to oversee the leader of the Turkish Cypriot community, the 'parliament', the 'council of ministers', the 'courts', the 'legal department', the 'public service commission', the 'audit office' and the 'police force'. It also has no jurisdiction over matters relating to foreign policy and the defence of the 'country'. The absence of a 'national' human rights institution established in accordance with the Paris Principles poses challenges for civil society organisations actively advocating for freedom of expression.

¹¹² 'information and communication technologies authority', Electronic Communication Sector Quarterly Data Report 2022-3. Quarter, Market Data Sectoral Reports 2022 p.51, <<https://www.bthk.org/Documents/raporlar/pazar-verileri-sektorel-raporlar/2022%20Q3%20Raporu.pdf>> accessed 17.01.2023.
¹¹³ 'information and communication technologies authority', Electronic Communication Sector Quarterly Data Report 2022-3. Quarter, Market Data Sectoral Reports 2022 p.35 <<https://www.bthk.org/Documents/raporlar/pazar-verileri-sektorel-raporlar/2022%20Q3%20Raporu.pdf>> accessed 17.01.2023.
¹¹⁴ Article 114. (3) of the constitution and sections 13. (A) and 13. (B) of the law on the ombudsperson'.

CONCLUSIONS AND RECOMMENDATIONS

While international human rights treaties and the 'constitution', which are integral parts of domestic 'law', attribute special importance to the protection of freedom of expression, in practice, political authorities often act contrary to the principles of freedom of expression.

The 'legislation' falls short of meeting the requirements of the present day, and there are 'regulations' that restrict individuals' freedom of expression and impede the free expression of their thoughts. Moreover, the political 'authorities' seem to be more concerned with enacting 'legislation' that contradicts freedom of expression instead of abolishing problematic 'laws'. In practice, the judgments of the ECtHR are often disregarded when initiating criminal 'cases' related to freedom of expression, and 'cases' are sometimes not concluded within a reasonable time, thereby violating the principle of a fair trial.

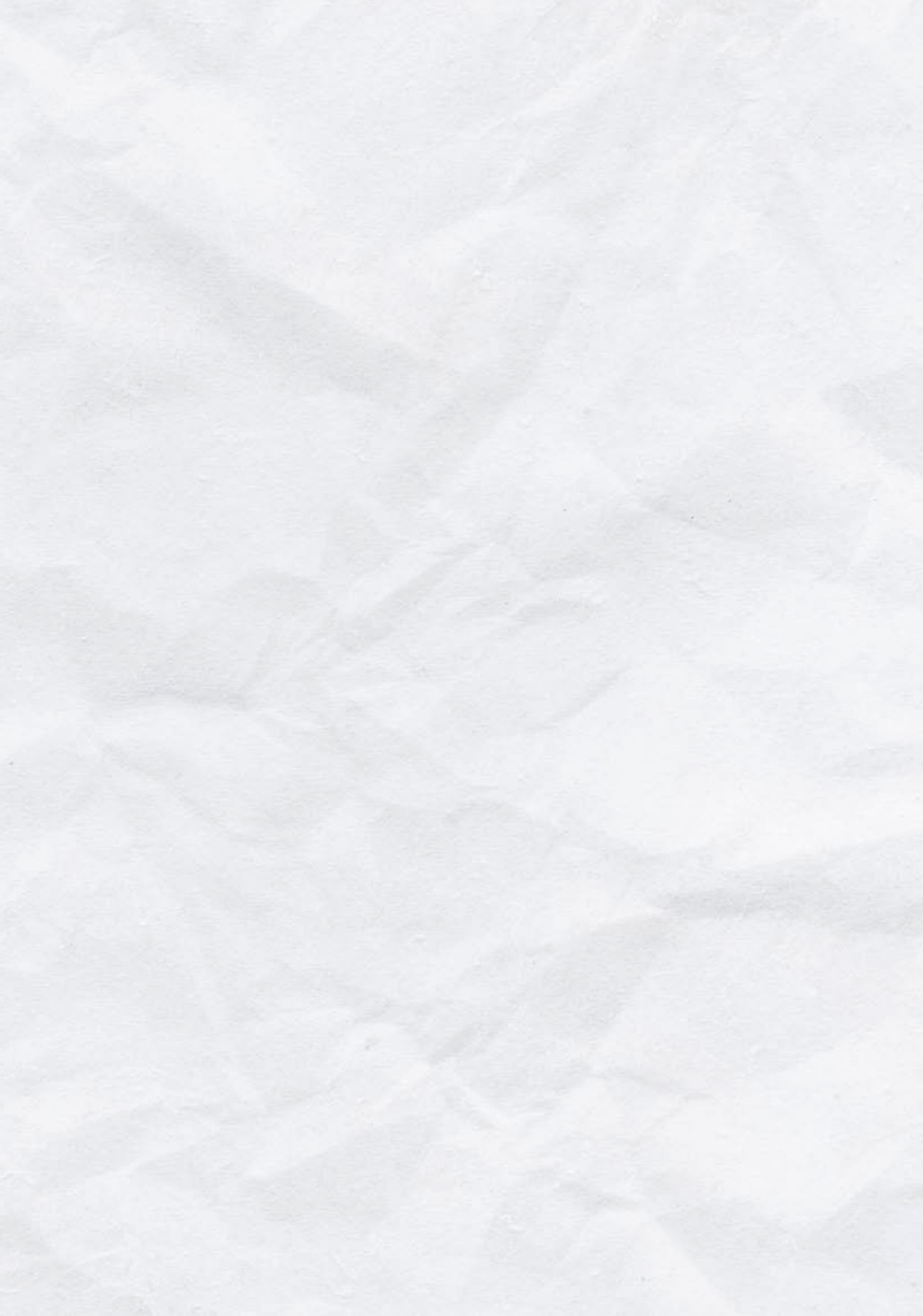
A concerning trend observed in 2022 is the initiation of criminal proceedings against individuals who exercise their freedom of expression, particularly when expressing criticism towards political figures.

Regarding the right to information, political 'authorities' do not hesitate to act as if such a right does not exist. The 'access to information assessment board', a body of questionable independence, does not receive sufficient number of applications.

While the 'law' on press labour contains some provisions aimed at protecting media independence, it does not provide sufficient 'legal' safeguards in practice. Many press workers have lost their jobs due to expressing their opinions, and the composition of the 'boards of directors' of public broadcasting organisations and the 'YYK' does not inspire confidence in their independence.

To address the issues highlighted in this report, the following recommendations are proposed:

- 1.** Reviewing the 'legislation' and amending regulations that pose problems for freedom of expression;
- 2.** Improving scrutiny of criminal 'cases' related to freedom of expression before initiating them before initiating them, taking into account ECtHR case law;
- 3.** Ensuring that 'cases' affecting freedom of expression are concluded within a reasonable timeframe;
- 4.** Removing the member of 'attorney general's office' in the 'access to information assessment board';
- 5.** Taking measures to increase the number of applications made to the 'access to information assessment board';
- 6.** Establishing a 'national' human rights institution;
- 7.** Introducing more protective measures in the 'law' on press labour to protect journalists against censorship by media owners;
- 8.** Enforcing stricter regulations for dismissing press workers;
- 9.** Ensuring the independence of the 'boards' of 'BRTK', 'TAK' and 'YYK';
- 10.** Taking necessary measures to ensure representation of diverse groups in 'public' broadcasting organisations;
- 11.** Amending 'chapter 79 press law', which stipulates that those who do not provide declarations and guarantees before newspapers are printed and published may be deprived of their liberty, and abolishing the penalty of deprivation of liberty;
- 12.** Introducing 'legislative' measures for promoting media diversity;
- 13.** Implementing a 'national' policy on education for all, including a human rights curriculum and "active learning" in the education system;
- 14.** Prohibiting war propaganda;
- 15.** Increasing supervision to control the 'BRTK's' public service broadcasting, its independence and impartiality, and whether it broadcasts in accordance with the requirements of democratic, secular and social management principles based on human rights.



 **Girne Street 168,Nicosia**

 **insanhaklariplatformu@gmail.com**

 **ihp.hrp**  **ihp.hrp**  **ihp_hrp**



This publication was funded by the European Union. Its contents are the sole responsibility of the Human Rights Platform and do not necessarily reflect the views of the European Union.


**insan
Hakları**
Platformu
Human Rights Platform