



The European Court agreed with the Latvian authorities that they had a duty to ensure the recognition and rapid enforcement of a judgment delivered in Cyprus

In today's Chamber judgment in the case of [Avotiņš v. Latvia](#) (application no. 17502/07), which is not final¹, the European Court of Human Rights held, by a majority, that there had been:

no violation of Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights.

The case concerned the enforcement in Latvia of a judgment delivered in Cyprus concerning the repayment of a debt. The applicant, an investment consultant who had borrowed money from a Cypriot company, complained that the Cypriot court had ordered him to repay his debt under a contract without summoning him properly and without guaranteeing his defence rights.

Like the Senate of the Latvian Supreme Court, the Court noted that the applicant should have appealed against the Cypriot court's judgment. It took the view that the Latvian authorities, which had correctly fulfilled the legal obligations arising from Latvia's status as a member State of the European Union, had sufficiently taken account of Mr Avotiņš' rights.

Principal facts

The applicant, Peteris Avotiņš, is a Latvian national who was born in 1954 and lives in the district of Riga (Latvia).

On 4 May 1999 Mr Avotiņš and F.H.Ltd., a commercial company registered in Cyprus, signed before a notary a formal acknowledgement of his obligation to repay a debt. Mr Avotiņš declared that he had borrowed 100,000 United States dollars from F.H.Ltd. and undertook to repay that amount with interest before 30 June 1999. The document stated that it would be governed "in all respects" by the laws of Cyprus and that Cypriot courts would have jurisdiction to hear all disputes arising from it.

In 2003 F.H.Ltd. sued Mr Avotiņš in the court of Limassol (Cyprus), declaring that he had not repaid his debt and seeking an order against him. On 24 May 2004, ruling in his absence, the Cypriot courts ordered Mr Avotiņš to repay his debt together with interest and costs and expenses. According to the judgment, the applicant had been duly informed of the date of the hearing but had not appeared.

On 22 February 2005 F.H.Ltd applied to the court for the district of Latgale (Riga) seeking the recognition and enforcement of the Cypriot judgment of 24 May 2004. The company also called for an interim measure of protection.

On 27 February 2006 the Latvian court ordered the recognition and enforcement of the Cypriot judgment of 24 May 2004 and the registration of a charge against Mr Avotiņš' property in the land register.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Mr Avotiņš claimed that he had become aware, by chance, on 16 June 2006, of the existence of both the Cypriot judgment and the Latvian court's enforcement order. He did not attempt to challenge the Cypriot judgment before the Cypriot courts but appealed in the Regional Court of Riga against the Latvian enforcement order.

In a final judgment of 31 January 2007 the Senate of the Latvian Supreme Court upheld F.H. Ltd.'s claim, ordering the recognition and enforcement of the Cypriot judgment together with the registration of a charge against the applicant's property in the land register. On the basis of that judgment, the court of Latgale delivered a writ of execution and Mr Avotiņš complied by repaying his debt. The registered charge on his property was lifted shortly afterwards.

Complaints, procedure and composition of the Court

The applicant complained that by enforcing the judgment of the Cypriot court, which in his view was clearly unlawful as it disregarded his defence rights, the Latvian courts had failed to comply with Article 6 § 1 (right to a fair hearing within a reasonable time).

The application was lodged with the European Court of Human Rights on 20 February 2007.

Judgment was given by a Chamber of seven judges, composed as follows:

Päivi Hirvelä (Finland), *President*,
Ineta Ziemele (Latvia),
George Nicolaou (Cyprus),
Ledi Bianku (Albania),
Zdravka Kalaydjieva (Bulgaria),
Vincent A. de Gaetano (Malta),
Krzysztof Wojtyczek (Poland),

and also Françoise Elens-Passos, *Section Registrar*.

Decision of the Court

Article 6 § 1

The Court noted that the judgment on the merits had been delivered on 24 May 2004 by the Cypriot court and the Latvian courts had ordered its enforcement in Latvia. Having, by a [partial decision](#) on 30 March 2010, declared inadmissible the complaint against Cyprus as being out of time, the Court did not have jurisdiction to decide whether or not the court of Limassol (Cyprus) complied with the requirements of Article 6 § 1. It was nevertheless for the Court to decide whether, in ordering the enforcement of the Cypriot judgment, the Latvian judges complied with the provisions of Article 6 § 1 of the Convention.

The Court observed that the fulfilment by the State of the legal obligations arising from its membership in the European Union was a matter of general interest. The Senate of the Latvian Supreme Court had a duty to ensure the recognition and the rapid and effective enforcement of the Cypriot judgment in Latvia.

Mr Avotiņš had argued before the Latvian courts that the summons to appear before the court of Limassol and the statement of claim by the company F.H.Ltd. had not been properly served on him in a timely manner, with the result that he had not been able to defend himself. Consequently, the Latvian courts should have refused the enforcement of the Cypriot judgment.

The Court observed that, in its final judgment of 31 January 2007, the Senate of the Latvian Supreme Court had declared that Mr Avotiņš had not appealed against the Cypriot judgment. Mr Avotiņš had

indeed not sought to lodge any appeal against the Cypriot court's judgment of 24 May 2004. Mr Avotiņš, an investment consultant who had borrowed money from a Cypriot company and had signed a recognition of debt governed by Cypriot law with a clause conferring jurisdiction on the Cypriot courts, had accepted his contractual liability of his own free will: he could have been expected to find out the legal consequences of any non-payment of his debt and the manner in which proceedings would be conducted before the Cypriot courts.

The Court took the view that Mr Avotiņš had, as a result of his own actions, forfeited the possibility of pleading ignorance of Cypriot law. It was for him to produce evidence of the inexistence or ineffectiveness of a remedy before the Cypriot courts, but he had not done so either before the Senate of the Latvian Supreme Court or before the European Court of Human Rights.

Having regard to the interest of the Latvian courts in ensuring the fulfilment of the legal obligations arising from Latvia's status as a member State of the European Union, the Court found that the Senate of the Latvian Supreme Court had sufficiently taken account of Mr Avotiņš' rights.

There had been no violation of Article 6 § 1 in the present case.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.