

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ALEXANDROU v. CYPRUS

(Application no. 49512/22)

JUDGMENT

STRASBOURG

9 April 2024

This judgment is final but it may be subject to editorial revision.



In the case of Alexandrou v. Cyprus,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Darian Pavli*, President*,
Georgios A. Serghides,
Oddný Mjöll Arnardóttir*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 49512/22) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 19 October 2022 by a Cypriot national, Mr Panayiotis Alexandrou ("the applicant"), who was born in 1990, is detained in Nicosia and was represented by Mr Y. Georgiades, a lawyer practising in Nicosia;

the decision to give notice of the complaint concerning the length of the criminal appeal proceedings before the Supreme Court under Article 6 § 1 of the Convention to the Cypriot Government ("the Government"), represented by their Agent, Mr G. L. Savvides, Attorney General of the Republic of Cyprus, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 12 March 2024,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the length of criminal appeal proceedings before the Supreme Court.

2. The applicant and two co-defendants (P.T.P. and D.Y.S.) were charged with, *inter alia,* the offence of manslaughter. The applicant's co-defendants admitted to the offences and were sentenced to thirteen and ten years' imprisonment, respectively. The applicant was tried and convicted of that offence, among others, and he was sentenced to fifteen years' imprisonment.

3. On 23 June 2017 the applicant filed an appeal with the Supreme Court (αρ. 152/2017) challenging his conviction and sentence, invoking twenty grounds of appeal. P.T.P. had already filed a separate appeal (αρ. 226/2016) challenging his sentence and the prosecutor had also already filed appeals against the decision on the sentence of the applicant's co-defendants (αρ. 237/2016 and 236/2016).

4. On 14 February 2019 the appeals, which were being heard together, were listed for the first time for directions. Between that date and 14 March 2019 the applicant requested, on separate occasions, a two week and a ten-day extension to prepare an application seeking leave to present further evidence. During that time P.T.P. was also allowed time to apply for legal aid and to appoint a new lawyer.

5. On 23 April 2019 the applicant filed an interim application seeking leave to present further evidence ("first interim application") and P.T.P. appointed a new lawyer under the legal aid scheme. The Supreme Court listed the applicant's first interim application for directions for 29 May 2019.

6. On 29 May 2019 the parties appeared before the Supreme Court. The prosecutor requested six weeks to file an objection to the applicant's first interim application. The court instructed the applicant to serve the first interim application to his co-defendants and the case was listed for directions for 11 June 2019.

7. On 11 June 2019, at the request of the public prosecutor and the applicant's co-defendants, the court instructed the parties to file any objection to the first interim application within eight weeks and the applicant's co-defendants did so on 1 August 2019. The registrar would, in the meantime, set the said application for hearing and the parties would be duly informed.

8. On 18 December 2019 the court allowed the applicant's request to file a supplementary affidavit in support of his first interim application. He was instructed to do so within fifteen days, after which the other parties would follow. The case was adjourned for 21 January 2020.

9. Between 21 January 2020 and 15 June 2020 procedural steps were taken in the proceedings concerning the application for supplementary affidavit and the first interim application. P.T.P. asked for and was awarded a ten-day extension in the meantime to submit his objection to the supplementary affidavit.

10. On 21 September 2020 the first interim application was heard and was dismissed by a decision of 20 October 2020.

11. On 26 October 2020 the court instructed the applicant and his co-defendants to file their outlines to the appeals within fourteen days from notification of the registrar's letter.

12. On 19 April 2021 the Supreme Court instructed the applicant to file his outline within ten days as he had failed to do so by then. On the same day, the applicant filed a second interim application seeking to have Judge O. recused from the appeal.

13. On 11 May 2021 the applicant filed his outline of address, followed by the prosecutor's outline on 28 May 2021.

14. On 8 June 2021 the applicant filed his written address in support of his second interim application. The court listed the application for directions on 17 June 2021 and instructed the parties to file any possible objections by that date. The prosecution did so on 14 June 2017.

15. On 17 June 2021 the court listed the second interim application for further directions for 13 September 2021.

16. On 13 September 2021 the applicant withdrew the second interim application and the court set the appeals for a hearing on 10 November 2021.

17. On 11 November 2021 the prosecution withdrew the appeals against the applicant's co-defendant and P.T.P. also withdrew his appeal. On the

same day the applicant's appeal was heard and the court reserved its judgment.

18. On 20 June 2022 the Supreme Court delivered its judgment dismissing the applicant's appeal concerning his conviction and reduced his sentence from fifteen to thirteen years' imprisonment.

19. Before this Court the applicant complained under Article 6 § 1 of the Convention about the length of the criminal appeal proceedings.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

20. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

21. The general principles concerning the length of criminal proceedings have been summarised, among others, in the cases of *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Georgiadis v. Cyprus*, no. 50516/99, §§ 40-41, 14 May 2002.

22. The period to be taken into consideration began on 23 June 2017, when the applicant filed the appeal, and ended on 20 June 2022, when the Supreme Court gave its judgment. It lasted almost five years at one level of jurisdiction. The total length of the proceedings at one level of jurisdiction is considerable, even when taking into account the procedural difficulties of the appeals being heard together (see paragraph 3 above), the two interim applications made by the applicant and the twenty grounds of appeal raised. Even discounting the period of approximately seven months overall which was attributable to the applicant (see paragraphs 4 and 11-13 above) the Court considers that the reasonable-time requirement was exceeded on the basis of the length of the remaining proceedings, which was over four years for one level of jurisdiction (see, in the same vein, *Xofaki v. Greece* [Committee], no. 78778/12, § 27, 20 April 2017, and *Krashias and Others v. Cyprus* [Committee], no. 52551/18, § 18, 20 June 2023, where a length of five years and eight months for two levels of jurisdiction was considered excessive).

23. The Court does not accept the Government's argument that the applicant should be held responsible for the time that lapsed from the filing of the second interim application for the recusal of Judge O. until its withdrawal on 13 September 2021 because it was allegedly abusive. There is no such finding by the Supreme Court, which allowed the submission of such application, instructed the parties to submit their pleadings and listed the application for directions on two occasions (see paragraphs 12 and 14 above). The Court points out that it has consistently held that applicants cannot be blamed for making full use of the remedies available to them under domestic law (see *Sablon v. Belgium*, no. 36445/97, § 95, 10 April 2001).

24. The applicant was not responsible either for any delays that occurred on account of the other parties' extension requests (see paragraphs 6 and 9 above), or for the four months of inactivity between 1 August 2019 when the parties submitted their objection to the first interim application and 18 December 2019, when the applicant requested leave to file a supplementary affidavit (see paragraphs 7 and 8 above). The Court reiterates that it is for the Contracting States to organise their judicial systems in such a way that their courts can meet the obligation to decide the cases within a reasonable time (see, among many others, *Löffler v. Austria*, no. 30546/96, § 57, 3 October 2000).

25. The Court further notes that, even though the appeal was lodged on 23 June 2017, the parties first appeared in court for directions on 14 February 2019. There was therefore a substantial period of inertia following the lodging of the appeal, amounting to more than one year and seven months (see paragraphs 3-4 above) (see, among others, *Papakokkinou v. Cyprus*, no. 4403/03, § 34, 14 December 2006, where the Court considered ten months' delay to be substantial). This delay has not been explained and appears to be unjustified, particularly considering the nature of the allegations which were pending against the applicant, the criminal nature of the proceedings and the diligence required in such cases (see, *Aresti Charalambous v. Cyprus*, no. 43151/04, § 45-47, 19 July 2007).

26. Having regard to all the circumstances of the case, the Court finds that in the present case the length of proceedings before the Supreme Court failed to meet the "reasonable time" requirement.

27. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the length of the appeal proceedings before the Supreme Court under Article 6 § 1 admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 9 April 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Darian Pavli President