

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

THIRD SECTION

CASE OF FOUTAS ARISTIDOU v. CYPRUS

(Application no. 11990/15)

JUDGMENT

STRASBOURG

7 June 2022

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Foutas Aristidou v. Cyprus,

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

Anja Seibert-Fohr, *President,*
Georgios A. Serghides,
Peeter Roosma, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 11990/15) 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 4 March 2015 by a Cypriot national, Mr Christakis Foutas Aristidou, born in 1955 and living in Limassol ("the applicant") who was represented by Mr E. Efstathiou, a lawyer practising in Nicosia;

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

the parties' observations;

Having deliberated in private on 17 May 2022,

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

SUBJECT-MATTER OF THE CASE

1. Following a complaint of indecent assault, on 26 January 2010, the applicant visited the place where the alleged offence took place with the police, he was questioned, charged by the police and pleaded not guilty. On 8 April 2010 the police forwarded the investigation file to the Police Prosecution Service; the file was returned to them with instructions for prosecution by the Attorney General on 22 March 2011. An indictment was prepared and on 6 July 2011 the case was listed with the District Court of Limassol (no. 9886/11). On 26 September 2011 the applicant appeared in court for the first time and pleaded not guilty. The case was postponed several times, mainly because the court did not have time to hear the case. The hearing commenced on 18 September 2013. On 25 June 2014 the District Court of Limassol found the applicant guilty of indecent assault. On 9 July 2014 considering the applicant's personal circumstances as well as the delay in filing the indictment with the court and the delay in the proceedings, the court sentenced the applicant to three months' imprisonment. On 3 October 2014 the Supreme Court dismissed the applicant's appeal (no. 180/14).

2. The applicant complained under Article 6 § 1 of the Convention about the length of the criminal proceedings with the District Court of Limassol as

well as a delay on the part of the authorities in bringing proceedings against him following the conclusion of the investigation.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

3. 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.

4. The general principles concerning the reasonableness of the length of proceedings have been summarised in *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II. The general principles concerning the existence of a "criminal charge" within the autonomous Convention meaning, have been summarised in *Kalēja v. Latvia*, no. 22059/08, § 36, 5 October 2017, and *Simeonovi v. Bulgaria* [GC], no. 21980/04, § 110, 12 May 2017, with further references therein.

5. The applicant's situation was "substantially affected" and he could be considered as being subject to a "charge" as from 26 January 2010, when he was questioned by police, an on-site visit to the place where the alleged offence had taken place was conducted, the applicant was charged by the police and he had pleaded not guilty. It is clear from these actions that at that point, a suspicion that the applicant had committed a criminal offence had crystalised and the applicant was accordingly subject to a "criminal charge" within the autonomous meaning of Article 6 of the Convention (see, *mutatis mutandis, Martins and Garcia Alves v. Portugal*, no. 37528/97, §§ 19-20, 16 November 2000, and *Aleksandr Zaichenko v. Russia*, no. 39660/02, § 42, 18 February 2010, among many other authorities).

6. The period to be taken into consideration began on 26 January 2010 and ended on 3 October 2014 when the Supreme Court gave its judgment (see *König v. Germany*, 28 June 1978, § 98, Series A no. 27). It lasted approximately four years and eight months at two levels of jurisdiction.

7. The proceedings were not, as such, complex and, overall, there were no major delays attributable to the applicant. There was a substantial period of inactivity of almost two years, between 26 September 2011 and 18 September 2013, mainly because the court did not have time to hear the case. In addition, as noted by the District Court of Limassol on 9 July 2014, there was also a delay in bringing an indictment with the court against the applicant. The Government did not provide sufficient explanation for the delays which occurred between 8 April 2010 when the investigation file was forwarded to the Police Prosecution Service, until 6 July 2011 when the case was listed with the District Court of Limassol.

8. While the total length of proceedings does not appear on the face of it to be excessive, the Court considers that the periods of inactivity noted above

constituted an unjustified delay, 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, *mutatis mutandis*, *Aresti Charalambous v. Cyprus*, no. 43151/04, § 45-47, 19 July 2007).

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. The applicant claimed pecuniary damages for unfair proceedings, and for losing his job as mayor in his village without quantifying an amount. He also claimed non-pecuniary damage, without quantifying an amount.

11. The Government submitted that there is no causal link between the breach found by the Court and the alleged damage to the applicant's professional career. They further submitted that a breach of the Convention constitutes sufficient just satisfaction.

12. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant 3,200 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

13. The applicant did not request reimbursement of expenses incurred in the domestic proceedings and the proceedings before the Court.

14. The Court further considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the length of proceedings with the District Court of Limassol under Article 6 § 1 of the Convention admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, at the rate applicable at the date of settlement: EUR 3,200 (three thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 7 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Anja Seibert-Fohr President