

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

FIFTH SECTION

CASE OF IOSIF v. CYPRUS

(Application no. 11500/23)

JUDGMENT

STRASBOURG

25 September 2025

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



In the case of Iosif v. Cyprus,

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

Gilberto Felici*, President*,
Georgios A. Serghides,
Diana Sârcu*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 11500/23) 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") by a Cypriot national, Mr Iosif Iosif ("the applicant"), on 9 March 2023;

the decision to give notice of the application to the Cypriot Government ("the Government");

the parties' observations;

Having deliberated in private on 4 September 2025,

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

INTRODUCTION

1. The case concerns mainly prejudicial statements made in a judgment concerning the applicant's co-accused and raises questions under Article 6 § 2 of the Convention.

THE FACTS

2. The applicant was born in 1978 and lives in Nicosia. He was represented by Mr C. Paraskeva and Mr Y. Polychronis, lawyers practising in Nicosia and Larnaca respectively.

3. The Government were represented by their Agent, Mr G. Savvides, Attorney-General of the Republic of Cyprus.

4. The facts of the case may be summarised as follows.

I. THE APPLICANT'S PROSECUTION FOR DIRECTING AN ASSASSINATION ATTEMPT AND REFERENCES TO HIM IN JUDGMENT AGAINST THE ASSAILANTS

5. On 26 November 2018 two people on a scooter opened fire on a car driven by a businessman in the streets of Nicosia. The bullets hit the back of the car without hurting the driver.

6. The police suspected that the shooting had been an assassination attempt, which had been directed by the applicant and executed by two others.

7. On an unspecified date, the applicant, a Greek Cypriot residing in the country's free territories, crossed into the occupied territories.

8. In December 2018 the Nicosia District Court ordered his arrest.

9. On 9 January 2019 the Turkish Cypriot authorities arrested the applicant on suspicion of illegal possession of firearms and ammunition.

10. On 24 September 2019 a criminal case against the suspected assailants was initiated in the Nicosia Assize Court.

11. On 12 March 2021 the Turkish Cypriot authorities handed the applicant over to the State authorities.

12. On 1 June 2021 a criminal case against the applicant was initiated in the Nicosia Assize Court.

13. On 3 September 2021 the court convicted the suspected assailants of attempted murder and other crimes. The 200-page judgment mentioned the applicant by name or alias about 100 times.

II. THE APPLICANT'S UNSUCCESSFUL CHALLENGE TO THE ASSAILANTS' CONVICTION

14. Expressing concern at the numerous references to him in the judgment, the applicant petitioned the Supreme Court for a writ of certiorari to review the assailants' conviction (αρ. 194/21).

15. In procedural terms, he submitted that certiorari was the only remedy at his disposal.

16. In substantive terms, the applicant argued that the references to him in the judgment amounted to a clear statement of his guilt, thereby guaranteeing that his own trial would be unfair. He contended that the judges who would try him would have already formed the opinion that he was guilty, forcing him to prove his innocence.

17. On 14 October 2021 a one-member lower division of the Supreme Court refused the petition, mainly because it related to the conviction of others.

18. On 17 January 2022 a five-member upper division of the Supreme Court upheld that decision (αρ. 289/2021).

III. THE APPLICANT'S UNSUCCESSFUL REQUEST TO TERMINATE THE CRIMINAL PROCEEDINGS AGAINST HIM

19. The applicant was committed to stand trial in the Nicosia Assize Court, sitting in a different composition from the one that had tried the assailants.

20. On 11 February 2022 he asked the court to terminate the criminal proceedings against him, arguing that they were an abuse of process (αρ. 10571/21).

21. In procedural terms, he submitted that that request was the only remedy at his disposal.

22. In substantive terms, the applicant argued that, if he were to stand trial, he would feel that the judges had already formed an opinion that he was guilty. He also argued that, unlike media reports, a ruling by a court of one's peers was certain to sway the judges.

23. On 1 June 2022 a three-member bench of the Assize Court refused the applicant's request by means of an interim decision.

24. The court agreed with the applicant that the judgment in the assailants' case had mentioned him extensively. The court described those references as "very specific references to the applicant's direct and clear involvement in the crimes committed by the [assailants]".

25. However, in the court's opinion, such references were unavoidable. It had been necessary to try the assailants separately to the applicant as he had fled to the occupied territories and it had not been possible to apprehend him in good time. In the meantime, the assailants' trial had lasted for eighteen months, and forty-two out of forty-four witnesses had testified. Interrupting that trial in order to merge it with the applicant's would have wasted the court's time and public funds and would have added to the court's backlog. The judgment also had to mirror the indictment, which had mentioned the applicant.

26. Furthermore, the court considered that the references to the applicant had been made solely in the context of determining the guilt of the assailants; otherwise, the applicant's name would have been spelled out on every occasion, including in the sentencing remarks. The court stressed that the judgment had not formally found the applicant guilty.

27. The court pointed out that it was neither bound by the judgment nor influenced, consciously or subconsciously, by any other authority. It assured the applicant that the members of the court who tried him would be impartial and neutral and would start with a clean slate.

IV. FURTHER EVENTS

28. On 10 November 2022 the Supreme Court upheld the judgment in respect of the assailants (αρ. 148/2021 και 155/2021). The 120-page judgment mentioned the applicant by name thirty-seven times.

29. On 9 March 2023 the applicant lodged his application with the Court.

30. In September 2023 the prosecution withdrew the murder charges against him.

31. On 22 September 2023 the Court gave notice of the application to the Government.

32. On 29 February 2024 a member of the office of the Government Agent wrote to one of the applicant's representatives before the Court asking whether the applicant intended to pursue his application to the Court in the light of the withdrawal of the murder charges against him. The applicant's representative received the letter and promised to reply in due course.

33. The representative missed the deadline for submitting his observations on the admissibility and merits of the case to the Court. On 1 May 2024 he wrote to the Court apologising and explaining that that unfortunate situation had been the result of, among other things, his client's "negotiations with the [Government Agent's] office in pursuit of a possible friendly settlement".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

34. Relying on Article 6 § 2 of the Convention, the applicant submitted that by referring to him in a judgment given against other individuals, the Assize Court had judged him guilty without trial and thus excluded any possibility of his receiving a fair trial. Article 6 § 2 reads as follows:

> "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

A. Admissibility

1. The parties' submissions

(a) The Government

35. The Government submitted that the application was inadmissible as being an abuse of the right of application, out of time, incompatible *ratione materiae* with the provisions of the Convention and manifestly ill-founded, and because the applicant had not exhausted domestic remedies and was no longer a victim of the alleged violation.

(i) Abuse of the right of individual application

36. The Government argued that the applicant had tried to mislead the Court by concealing the withdrawal of the murder charges against him (see paragraph 30 above). That was a crucial development, as the trial of those charges was at the core of his complaint.

37. The Government suggested that the applicant's abusive attitude towards the Court had also been demonstrated by his representative's dishonesty. The representative had falsely told the Court that he and the Government had discussed a friendly settlement (see paragraph 33 above).

(ii) Incompatibility ratione materiae

38. The Government argued that, after the murder charges against the applicant had been withdrawn, he was no longer someone "charged with a criminal offence" and, as such, Article 6 § 2 no longer applied to him and the complaint under that Article had thus become incompatible *ratione materiae* with the provisions of the Convention.

(iii) Victim status

39. The Government also argued that the applicant could no longer claim to be a victim of the alleged violation. With the withdrawal of the murder charges, there would be no trial and, therefore, nothing that could be rendered unfair by the contested references.

(iv) Exhaustion of domestic remedies

40. The Government asserted that to exhaust all domestic remedies, as required by Article 35 § 1 of the Convention, the applicant should have brought an action against the State in a civil court for a violation of his human rights (*Takis Yiallouros v. Evgenios Nicolaou* ([2001] 1 C.L.R. 558)).

41. This was a judgment of the Supreme Court in a civil case which had concerned a violation of the right to private life and correspondence. The Supreme Court, sitting as a full bench, had held that alleged violations of human rights were actionable, meaning that district courts could adjudicate upon complaints of human rights violations in the context of a civil action and that victims of the said violations were entitled to damages and other appropriate remedies that a court exercising civil jurisdiction was empowered to grant. Damages in such cases included pecuniary and non-pecuniary damage, with the latter also including damages for hardship. The significance of the abovementioned judgment was self-evident. It had essentially been held that human rights violations under the Convention were civil wrongs and therefore actionable and that the right to initiate a civil action for the said violations was not affected by the possibility of instituting a civil action by virtue of other domestic legislation (such as, for example, the Civil Wrongs Act (Cap. 148)). The said judgment was considered to be a binding precedent for lower courts and the Supreme Court, while the competence of the district courts of Cyprus to adjudicate upon complaints of human rights violations under the Convention was no longer questionable.

(v) Four months

42. The Government further argued that the applicant had missed the time-limit for lodging his application as set out in Article 35 § 1 of the Convention. In their view, he should have applied to the Court within four months of the Nicosia Assize Court's interim decision of 1 June 2022, which they considered the "final decision" under Article 35 § 1. They contended that the applicant was mistaken in believing that the "final decision" had been the Supreme Court's appeal judgment of 10 November 2022 in respect of the assailants. That mistake, the Government asserted, was inexcusable, given the Assize Court's clear statement that its conclusion on the presumption of innocence could not be affected by the Supreme Court's judgment.

(vi) Ill-founded nature of the complaint

43. Lastly, the Government argued that the complaint was manifestly ill-founded.

44. They endorsed the findings made by the Assize Court in its interim decision (see paragraphs 24–27 above) and asserted that they did not perceive any pronouncement of the applicant's guilt in the judgment against the assailants.

(b) The applicant

45. The applicant maintained his complaint.

(i) Victim status

46. The applicant contended that he had remained affected by the alleged violation until, at the very least, the withdrawal of the murder charges.

(ii) Ill-founded nature of the complaint

47. The applicant accused the Assize Court and the Government of misunderstanding the Court's approach to the subject. Although the Assize Court's judgment had not explicitly described him as "guilty", it had mentioned him 100 times. The Supreme Court's judgment had mentioned him thirty-seven times. The sheer number of those references made it unnecessary to analyse each one individually. Together they created the overall impression that he was guilty, thus undermining the fairness of his trial. Without implicating him so extensively in the assassination plot, the prosecution would not have been able to secure the conviction of the assailants.

48. To guarantee the applicant's right to be presumed innocent, the Assize Court should have tried the three suspects together. Instead, his right had been sacrificed for the sake of the Attorney-General's desire to bring cases to judgment quickly. Although the assailants' trial had been well under way by the time of the applicant's arrest, it had been "substantially unsound" to continue trying them separately.

2. The Court's assessment

(a) Abuse of the right of individual application

49. The Court cannot discern any bad faith and, thus, any abuse of the right of application in the applicant's actions.

50. The murder charges against him were withdrawn shortly before the Court gave notice of the application to the Government (see paragraph 30 above), leaving the applicant little time to update the Court on that development. In any event, as will be explained below, that development was not crucial for the examination of the complaint.

51. The applicant's representative's reference to friendly-settlement negotiations alleged to have taken place, which the Government denied, did not impede the Court in the fulfilment of its duties. The applicant's representative did not breach the confidentiality of the friendly-settlement negotiations (see, *a contrario*, *Hadrabová and Others v. the Czech Republic* (dec.), nos. 42165/02 and 466/03, 25 September 2007).

(b) Incompatibility *ratione materiae*

52. The Court considers that it has jurisdiction over the subject matter of the complaint because when the Assize Court referred to the applicant in the judgment against the assailants, he was still "charged" with murder.

(c) Victim status

53. Although the applicant is unlikely to be tried for murder at this stage, the Court finds that he remains affected by the alleged violation of the presumption of innocence. In fact, even if acquitted, an accused can still be regarded as a victim of a breach of the presumption of innocence under Article 6 § 2 (see *Ayetullah Ay v. Turkey*, nos. 29084/07 and 1191/08, § 112, 27 October 2020).

(d) Exhaustion of domestic remedies

54. The Court reiterates that it is for the applicant to choose one feasible domestic remedy over another (see *O'Keeffe v. Ireland* [GC], no. 35810/09, § 111, ECHR 2014 (extracts)).

55. The Court observes that the applicant's request for the termination of the criminal proceedings against him, in which he raised his concerns regarding preconceived views on his guilt, was examined by a court that was competent to deal with the essence of the matter (see paragraphs 20–27 above). This satisfies the requirement to exhaust domestic remedies.

(e) Four months

56. The Court observes that the applicant lodged his application less than four months after 10 November 2022, when the Supreme Court upheld the judgment in respect of the assailants, thereby upholding the impugned approach alleged to have violated his rights. The proceedings leading to the judgment of 10 November 2022 could have resulted in removing the source of the alleged violation and it was not unreasonable for the applicant to await their outcome.

(f) Ill-founded nature of the complaint

57. The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court

concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established.

B. Merits

58. The parties' arguments on the merits of the complaint are summarised in paragraphs 44 and 47–48 above.

59. The Court reiterates that when an absent defendant is implicated by references in a judgment against his or her co-defendants, those references may have a negative impact on his or her own trial and violate Article 6 § 2 (see *Karaman v. Germany*, no. 17103/10, §§ 43–44, 27 February 2014).

60. The Court's conclusion on this issue will depend on the following factors:

(a) why it was necessary to try the co-defendants separately (see *Bauras v. Lithuania*, no. 56795/13, § 54, 31 October 2017);
(b) whether it was feasible to try everyone together (see *Karaman*, cited above, § 64);
(c) whether the judgment mentioned the absent defendant as little as possible (ibid., § 64);
(d) the specific wording used (ibid., § 65; see also *Mucha v. Slovakia*, no. 63703/19, § 66, 25 November 2021; *Negulyayev v. Russia*, no. 49330/16, § 7, 8 March 2022; and *Krátký v. Slovakia*, no. 35025/20, § 17, 15 February 2024);
(e) how much detail was revealed about the absent defendant's role in the matter on trial (see *Mucha*, cited above, § 60);
(f) how clearly the judgment stated that it was not determining the absent defendant's guilt (see *Karaman*, cited above, § 67, and *Beltsios v. Greece*, no. 57333/14, § 19, 28 November 2023);
(g) how clearly the authorities indicated that the references would not prejudge the absent defendant's guilt (see *Karaman*, cited above, § 70);
(h) how much of the absent defendant's identity was disclosed, including whether it was by full name, alias, or initials (see *Vulakh and Others v. Russia*, no. 33468/03, § 36, 10 January 2012; *Karaman*, cited above, § 69; and *Mucha*, cited above, § 62);
(i) whether the judgment was read out publicly (see *Krátký*, cited above, § 18);
(j) how the media reacted to the judgment (see *Karaman*, cited above, § 68);
(k) what legal effect the judgment had on the absent defendant's trial (see *Bauras*, cited above, § 55, and *Navalnyy and Ofitserov v. Russia*, nos. 46632/13 and 28671/14, §§ 105, 107, 23 February 2016);

(l) whether the courts sought to mitigate any resulting prejudice (see *Krátký*, cited above, § 21); and

(m) whether the higher courts rectified that prejudice (see *Mucha*, cited above, § 67).

61. Among those factors, the specific wording used carries the most weight (see *Mucha*, cited above, § 66, and *Negulyayev*, cited above, § 8).

62. In the present case, the Court agrees with the Assize Court (see paragraph 25 above) that the decision to begin the trial of the co-defendants before the applicant's arrest was appropriate, as he was in the territories beyond the government's control and it was uncertain whether he could be handed over.

63. The Court also acknowledges that the judgment did not formally declare the applicant guilty, that the Assize Court was not bound by it, and that the Assize Court committed to trying the applicant afresh (see paragraphs 26 and 27 above).

64. However, after receiving the indictment against the co-defendants, which contained multiple references to the applicant by name, the Assize Court could have prevented an issue from arising by directing the prosecution to amend the indictment in order to safeguard the applicant's rights. This would have ensured compliance with the requirement to minimize naming the absent defendant (see paragraph 60 (c) above).

65. Most importantly, the specific wording used, which the Assize Court itself described as "very specific references to the applicant's direct and clear involvement in the crimes committed by the [assailants]" (see paragraph 24 above) along with the sheer number of those references (see paragraph 13 above), leads the Court to conclude that the applicant's right to be presumed innocent has been violated (see paragraph 60 (d) and (c) above).

66. There has accordingly been a violation of Article 6 § 2 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

67. Relying on Article 13 of the Convention taken together with Article 6 § 2, the applicant complained that he had had no effective remedy against the prejudgment of his guilt since his petitions for a writ of certiorari and for the termination of the criminal proceedings against him had been rejected and since no appeal lay against that rejection. Article 13 reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

Admissibility

1. The parties' submissions

(a) The Government

68. The Government argued that this complaint should be declared inadmissible because after the withdrawal of the murder charges against the applicant, the complaint had stopped being "arguable", and because the applicant had had effective domestic remedies at his disposal.

69. The first remedy available to the applicant was a petition for the termination of the criminal proceedings against him on the grounds of an abuse of process (see paragraphs 20–27 above). That remedy was effective because it could have found that the prosecution was procedurally flawed as a result of a violation of the presumption of innocence (unlike, for example, in *Konstas v. Greece*, no. 53466/07, §§ 55–57, 24 May 2011). The outcome of a remedy might disappoint an applicant, but that did not mean that it was ineffective.

70. The second remedy available to the applicant was a civil action in line with the *Takis Yiallouros* jurisprudence.

(b) The applicant

71. The applicant maintained his complaint.

72. He took issue with an interim decision of a single [*sic*] judge being unappealable. He questioned whether a civil action would have been effective in his case, as damages could only be granted for a recognised violation of human rights, and a civil court was not likely to rule that the presumption of innocence had been violated after the criminal court had stated that it had not.

2. The Court's assessment

73. The Court agrees with the Government that the applicant's disappointment with the outcome of the remedies in question is not a sign of their ineffectiveness (see, with further references, *Vassiliou and Others v. Cyprus*, no. 58699/15, § 111, 31/08/2021).

74. As to the second part of the applicant's complaint, the Court reiterates that Article 13 does not as such guarantee the right to appeal (see, for example, *Kübli v. Switzerland* (dec.), no. 17495/90, 2 December 1992).

75. The applicant's request for the termination of the criminal proceedings against him was examined by a three-member (and not one-member, as the applicant claimed, see paragraph 23 above) court that was capable of granting that request. That remedy alone was sufficient to meet the requirements of Article 13. In addition, it could have addressed any prejudgment of his guilt that might have arisen during his trial.

76. Since Article 13 requires only one effective remedy, it is superfluous to explore whether a civil action under the *Takis Yiallouros* jurisprudence

(*Takis Yiallouros v. Evgenios Nicolaou* ([2001] 1 C.L.R. 558)) would have been effective.

77. The Court finds that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

78. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

79. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage.

80. The Government considered this claim excessive.

81. The Court awards the applicant EUR 5,000, plus any tax that may be chargeable.

B. Costs and expenses

82. The applicant also claimed EUR 1,000 in respect of costs and expenses.

83. The Government objected to this claim because it was unsupported by evidence.

84. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, the applicant has failed to provide itemised bills or invoices substantiating his claim (Rule 60 § 2 of the Rules of Court). The Court therefore rejects the claim.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 2 concerning the presumption of innocence admissible and the remainder of the application inadmissible;

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

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, EUR 5,000 (five thousand 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 25 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Gilberto Felici President