



No violation of right to a fair trial in Evangelos Florakis Naval Base explosion prosecution

In today's Chamber judgment¹ in the case of [Loizides v. Cyprus](#) (application no. 31029/15) the European Court of Human Rights held, by 4 votes to 3, that there had been:

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

The case concerned the trial of Mr Loizides in connection with the Evangelos Florakis Naval Base explosion and in particular the tied verdict on his appeal.

The Court found in particular that the domestic-court reasoning had been adequate, and that it had been clear that a tie would lead to dismissal of the appeal for failure to discharge the burden of proof.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Andreas Loizides, is a Cypriot national who was born in 1958 and lives in Nicosia.

In 2011 Mr Loizides was the Chief of the Special Unit for Disaster Response in Cyprus. Following the Evangelos Florakis Naval Base explosion in that year, which led to the death of thirteen people and numerous casualties, Mr Loizides was charged along with five others in connection with the incident.

In 2013 the Larnaca Assize Court convicted him of causing death by a rash, reckless or dangerous act, sentencing him to two years' imprisonment. In 2014 the Supreme Court heard an appeal by the applicant and some of the other defendants. Three different judgments were delivered – the first judgment, delivered by six judges, dismissed the appeal; the second judgment, delivered by two judges, allowed the appeal and acquitted the applicant of all charges; and the third judgment, delivered by four judges, stated that they would allow the appeal under a different reasoning. However none of these had a majority of the 12-judge bench (one judge had not sat owing to his upcoming retirement).

After the judgments were pronounced, the President of the Supreme Court made a separate announcement concerning, among other things, the summary of the applicant's appeal, stating as follows:

"... The Criminal Appeal of the sixth defendant, Andreas Loizides, is dismissed, because there was a tie vote of 6-6 concerning the outcome of his appeal and he did not discharge the burden of proving (*δεν απέσεισε το βάρος απόδειξης*) that the first-instance decision and sentence was incorrect."

Complaints, procedure and composition of the Court

Relying on Articles 6 § 1 (right to a fair trial) and 2 (presumption of innocence), 13 (right to an effective remedy) and 2 § 1 of Protocol No. 7 (right of appeal in criminal matters), the applicant

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.

alleged various irregularities in the proceedings, in particular that the dismissal of his appeal as a consequence of a tie vote had been in breach of his right to have a fair trial. He also complained that the burden of proof had been reversed in his trial, that he had been denied review of his conviction, and that there had been no effective remedy for his complaints.

The application was lodged with the European Court of Human Rights on 16 June 2015.

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

Georges **Ravarani** (Luxembourg), *President*,
 Georgios A. **Serghides** (Cyprus),
 María **Elósegui** (Spain),
 Darian **Pavli** (Albania),
 Anja **Seibert-Fohr** (Germany),
 Peeter **Roosma** (Estonia),
 Frédéric **Krenc** (Belgium),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Article 6 § 1

The Court noted that under domestic law ties were not precluded in Supreme Court votes, and the President of the Supreme Court did not have the casting vote. In the event of a tie at the Supreme Court, the judgment was issued against the party who had the burden of proof (section 27(2) of Law 14/1960). The Court stated that a tie vote alone did not *per se* constitute a violation of Article 6.

The reasoning in the three judgments had been adequate. Although the Supreme Court had made no overt reference to Law 14/1960, it had made clear that the dismissal of the applicant's appeal had been the result of the tied vote. The President of the Supreme Court orally announced the result of the judgments, ensuring that the applicant had understood that he had failed to discharge the burden of proof. Furthermore, the Supreme Court had issued a press release to that effect.

The Court thus concluded that there had been no violation under this Article.

Other articles

The Court found no appearance of a violation in connection with the applicant's complaints under Articles 6 § 2 and 13 and Article 2 § 1 of Protocol No. 7, and so rejected that part of the application.

Separate opinions

Judges Serghides expressed a dissenting opinion. Judges Pavli and Krenc expressed a joint dissenting opinion. These opinions are annexed to the judgment.

The judgment is available only in English.

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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.