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Court dismisses defendants' application in limitation period case



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Litigation, Cyprus

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Introduction

As a matter of public policy, most jurisdictions impose a time bar on civil actions: once a specified period (the limitation period) has passed, the defendant can no longer be sued on that particular issue. One of the main justifications for limitation periods is that they encourage claimants to bring claims before recollections of events become unreliable and evidence becomes impossible to obtain. Further, they bring about certainty: once the limitation period has passed, the potential defendant can be certain that any benefit they have obtained cannot be challenged and will not need to be returned to the claimant.

Limitation periods

Limitation periods in Cyprus were suspended for many years. However, in 2012 the Limitation of Actionable Rights Law⁽¹⁾ was enacted to reintroduce time limits for the filing of civil claims, with time starting to run on the day that the cause of action accrues (also known as 'the completion of the basis of action'). Following several deferrals, limitation periods began to run on 1 January 2016 (apart from a few exceptions specified in Articles 24 and 29 of the new law, including deadlines for compensation under the Defective Products (Civil Liability) Law, together with the time limits specified in Article 58 of the Civil Crimes Law, Article 34 of the Property Management Law, Article 15 of the Matrimonial Property Law and any other provision not repealed by the new law). The entry into effect of the new law saw a resumption of the smooth passage of legal rights after more than 50 years of continuous suspension.

Recent case law

One of the first reported cases relating to the new law on limitation periods is a judgment of the District Court of Limassol ⁽²⁾ on an interim application by the defendants in the case, an insurance company, for a preliminary ruling on the question of limitation under Article 68 of the Civil Wrongs Law,⁽³⁾ which requires any action in respect of any tort to be filed within three years after the acts or omissions giving rise to the claim.

The court rejected the defendants' application, stating:

Law No. 66 (I)/2012, having been in force since July 1, 2012, explicitly repeals Article 68 of Chapter 148 in relation to acts or omissions that have occurred on or after that date (Article 28, 29 and Annex N.66(I)/2012). However, based on N.66(I)/2012, although the time for filing an action for damages due to negligence is still three years from the date on which the basis of the claim was accrued (Article 6 (2)), the legislator has provided that the limitation period for all other actionable rights starts to be measured from 1 January 2016.

The court held that the law on limitation periods, together with Article 30.2 of the Constitution,⁽⁴⁾ impose specific time limits to ensure the rule of finality and to distinguish between *bona fide* and *mala fide* civil and criminal procedures.⁽⁵⁾ The question of whether Article 30.2 of the Constitution or the specific time limits have been violated is a matter for the court to decide, having regard to all the circumstances and particularities of each case as well as the consequences of any delay. The court exercised its discretion accordingly and dismissed the defendants' application with costs against them.

Claims for torts arising before the law on limitation periods took effect became time-barred from 1 January 2019.

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Endnotes

(1) Law 66(I)/2012.

(2) *Andreas Iakovou v CNP ASFALISTIKI LTD*, Civil case 2743/16, Interim judgment, 27 July 2018.

(3) Cap 148.

(4) Article 30.2 provides that "every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court".

(5) *Fekkas v EAC* (1968) 1 CLR 173.

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