



Cyprus convicted and fined for 26-year-old soldier's death



Maria Hadjisavva 05 May 2020 | Contributed by Elias Neocleous & Co LLC

Litigation, Cyprus

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Introduction

In its 28 January 2020 decision in *Nicolaou v Cyprus* (Appeal 29068/10), the European Court of Human Rights (ECHR) sentenced Cyprus for the death of a 26-year-old soldier.

The ECHR accepted the family's claim that the Cypriot authorities had failed to conduct sufficient investigations into the death of Athanasios Nicolaou, who was found dead under a bridge in September 2005 while undertaking military service in Cyprus. The ECHR found that the investigation into Nicolaou's death had infringed Article 2 of the European Convention on Human Rights. Consequently, the ECHR awarded his family €32,000 in non-pecuniary damages.

Facts

In September 2005 Nicolaou was performing his six-month compulsory military service. After overnight leave, he was due to return to camp. However, the family were alerted that he had not returned. His body was subsequently found under a bridge, not far from his parked car. His family alleged that he had been killed by other soldiers.

The police initiated an investigation into the circumstances of Nicolaou's death. The first inquest, which took place before a district court, found that the conditions of his death were akin to suicide. However, this finding was annulled following a certiorari application filed by Nicolaou's mother. The annulment was granted because the inquest had not provided grounds to conclude with a degree of certainty that Nicolaou's death had been a suicide. The death was then examined by a second investigator who concluded that Nicolaou had passed away due to wounds caused by a fall, thereby excluding any criminal act. After the second inquest, the case was archived.

Criminal investigation

On 21 March 2011 the Council of Ministers appointed two independent criminal investigators to investigate the circumstances of Nicolaou's death.

At the end of 2012, the independent criminal investigators suggested that the investigation be reviewed by the police. This was based on their finding that Nikolaou's death "may have been the result of a criminal act".

In January 2013 the Council of Ministers forwarded the criminal investigators' file and findings to the former attorney general, who instructed the criminal investigators to continue the investigation. On 24 May 2013 the Council of Ministers gave the relevant instructions to the criminal investigators.

On 24 February 2014 the criminal investigators reiterated their recommendation for further investigation by the police. On 8 April 2014 the attorney general ruled that based on the investigation up to that point, there was no evidence that merited further police investigation. However, on 3 November 2014 the attorney general instructed the police to conduct a further investigation.

The police completed their investigation in June 2018. In September 2018 the attorney general concluded that it was impossible to secure evidence to suggest that Nicolaou's death had been the result of a criminal act.

Nicolaou's family argued before the ECHR that the investigation into the causes of his death had been inadequate. The family also argued that Nicolaou had been subjected to bullying, harassment and intimidation by other soldiers who were serving in the same camp.

Ultimately, the ECHR concluded that:

The Court has examined the application for an investigation under Article 2 (right to life) of the European Convention on Human Rights and has found that this has been breached by the Republic of Cyprus.

For further information on this topic please contact Maria Hadjisavva at Elias Neocleous & Co LLC by telephone (+357 25 110 110) or email (maria.hadjisavva@neo.law). The Elias Neocleous & Co LLC website can be accessed at www.neo.law.

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