



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ
ΝΟΜΙΚΗ ΥΠΗΡΕΣΙΑ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

Γ.Ε. 88(Γ)/89/Υ443
Τηλ. 22889178
Φαξ. 22665080
Email: tchristodoulidou@law.gov.cy

30 Νοεμβρίου 2022

**Τομέας Ατομικών
Δικαιωμάτων/Ελευθεριών
Νομικής Υπηρεσίας
(διεθνής πτυχή)**

ΠΑΓΚΥΠΡΙΟΣ ΔΙΚΗΓΟΡΙΚΟΣ ΣΥΛΛΟΓΟΣ
ΕΛΗΦΘΗ ΤΗΝ

Πρόεδρο Παγκύπριου Δικηγορικού Συλλόγου
Κοινοβουλευτική Επιτροπή Νομικών
Κοινοβουλευτική Επιτροπή Ανθρωπίνων Δικαιωμάτων

**Θέμα: Ψήφισμα Επιτροπής Υπουργών – Απόφαση Ευρωπαϊκού Δικαστηρίου
Ανθρωπίνων Δικαιωμάτων - Savvides v. Cyprus (no. 14195/15)**

Σε συνέχεια επιστολής μου ημερ. 4.1.22 με την οποία σας ενημέρωσα για την έκδοση της πιο πάνω απόφασης, πληροφορείστε ότι η Επιτροπή Υπουργών του Συμβουλίου της Ευρώπης, η οποία επιτηρεί τη συμμόρφωση των κρατών με τις αποφάσεις του ΕΔΑΔ, κατά την 1449^η συνάντησή της στις 23.11.22, υιοθέτησε ψήφισμα για κλείσιμο της επιτήρησης της συμμόρφωσης της Δημοκρατίας με την πιο πάνω απόφαση, καθότι πείστηκε ότι τα μέτρα που έχουν ληφθεί και τα οποία καταγράφονται στο Σχέδιο Έκθεσης είναι ικανοποιητικά.

Το ψήφισμα της Επιτροπής Υπουργών όπως και το επισυναπτόμενο σε αυτό Σχέδιο Έκθεσης επισυνάπτονται για ενημέρωση στη βάση σύστασης της Επιτροπής Υπουργών για δημοσιοποίηση και προώθηση των αποφάσεων του ΕΔΑΔ και των ψηφισμάτων της Επιτροπής Υπουργών.


Δρ. Θεοδώρα Χριστοδουλίδου

Ανώτερος Δικηγόρος της Δημοκρατίας
για Γενικό Εισαγγελέα της Δημοκρατίας

Resolution CM/ResDH(2022)318
Execution of the judgment of the European Court of Human Rights
Savvides against Cyprus

*(Adopted by the Committee of Ministers on 23 November 2022
at the 1449th meeting of the Ministers' Deputies)*

Application No.	Case	Judgment of	Final on
14195/15	SAVVIDES	14/12/2021	14/12/2021

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter "the Convention" and "the Court");

Having regard to the final judgment transmitted by the Court to the Committee in this case and to the violation established on account of lack of access to a court (Article 6 of the Convention);

Recalling the respondent State's obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible restitutio in integrum; and
- of general measures preventing similar violations;

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation;

Having examined the action report provided by the government indicating the measures adopted to give effect to the judgment including the information provided regarding the payment of the just satisfaction awarded by the Court (see document DH-DD(2022)1047);

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and

DECIDES to close the examination thereof.

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Zoe Bryanston-Cross
Tel: 03.90.21.59.62

Date: 03/10/2022

DH-DD(2022)1047

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1451st meeting (December 2022) (DH)

Item reference: Action Report (30/09/2022)

Communication from Cyprus concerning the case of Savvides v. Cyprus (Application No. 14195/15)

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1451^e réunion (décembre 2022) (DH)

Référence du point : Bilan d'action (30/09/2022)

Communication de Chypre concernant l'affaire Savvides c. Chypre (requête n° 14195/15) (**anglais uniquement**)

DGI

30 SEP. 2022

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

ACTION REPORT

Savvides v. Cyprus

(Application no. 14195/15, Judgment of 14 December 2021, final on 14 December 2021)

I. CASE DESCRIPTION

The case concerns an infringement of the applicant's right of access to a court on account of the refusal, in 2014, of the Family Court of Appeal to examine the applicant's appeal on the merits owing to an irregularity in the title of the notice of appeal (violation of Article 6 § 1 of the Convention). The European Court concluded that the applicant was disproportionately hindered in his access to a court owing to the excessively formalistic approach followed by the Family Court of Appeal (para. 34 of the judgment). This was so because the Family Court of Appeal, applying its case law, dismissed, due to lack of jurisdiction, the applicant's appeal before it on account of her lawyer's failure to replace and/or add to the existing phrase "Supreme Court" on the notice of appeal, the phrase "Family Court of Appeal" (see paras. 19 and 28-29). At the relevant time there was no specified form to be used solely for appeals to the Family Court of Appeal (see para. 30).

II. INDIVIDUAL MEASURES

Just satisfaction

The just satisfaction awarded by the European Court has been paid.

Other individual measures

The Supreme Court was recently called to decide whether to re-open the appeal proceedings following two judgments of the European Court in the cases of *Nicholas v. Cyprus*, no. 6324/10 and *Koulias v. Cyprus*, no. 48781/12. In both judgments the European Court found a violation of the right to a fair trial (lack of objective impartiality).¹

¹ The Committee of Ministers decided to close the examination of both cases, having been satisfied that all the measures required by Article 46§1 have been adopted, see Resolution CM/ResDH(2022)66 and Resolution CM/ResDH(2018)359.

In the case of Koulias, the Supreme Court decided not to re-open the appeal proceedings² for the reasons explained in its judgment (see DH-DD(2022)208). In the case of Nicholas, the Supreme Court decided to re-open the appeal proceedings.³ It held that due to the violation of the applicant's right to a fair trial, the decision of the Supreme Court was in essence null. It further held that in exercising its inherent jurisdiction (σύμφυτη εξουσία) and for the purposes of the proper administration of justice it may order (and it did order in that case) the re-opening of the appeal so that same can be heard before an independent and impartial appeal court.

In view of the above recent case law, it is possible under domestic law for the applicant to request for the re-opening or re-examination of the appeal proceedings given that domestic case law provides for the possibility of re-opening of the appeal proceedings following a judgment of the European Court. Obviously, the decision whether to re-open the appeal proceedings or not, rests with the Supreme Court/Family Court of Appeal. The applicant in the present case has not submitted any such request.

No further individual measures are necessary.

III. GENERAL MEASURES

Before the delivery of the European Court's judgment, Rule 10 of the Family Courts Procedural Rules was amended on 28 November 2016 (7/2016). This amendment introduced a new form (Form 2 – notice of appeal) to replace Form 28⁴ and to be used solely for appeals to the Family Court of Appeal. The title of Form 2 begins with the phrase "Family Court of Appeal" and continues with "appeal against the decision of the Family Court in application no ..." (see para. 18 of the judgment). This means that now there is a specified form to be used solely for appeals to the Family Court of Appeal.

Moreover, before the delivery of the European Court's judgment, the Family Court of Appeal departed from its previous case law, which had been to dismiss an appeal owing to lack of jurisdiction, when the notice of appeal indicated "Supreme Court" instead of

² *Z. Koulias v. K. Themistocleous*, civil appeal no. 79/2013, decision of 21.7.20.

³ *Xxx Nicholas v. Cyprus Airways under voluntary liquidation, via the liquidators David Duncley and Avgoustino Papatoma*, civil appeal no. 43/2007, decision of 24.2.22, at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2022/1-202202-43-07PolEf.htm&qstring=43%20w%2F1%202007

⁴ At the relevant time Form 28 was the only standard form to be used for both civil and family court appeals and contained the phrase "Supreme Court".

Family Court of Appeal". In the case of *Heys v. Philippides* (appeal no. 41/2015) the Family Court of Appeal held that it would be formalistic to consider that the appeal did not exist, simply because of the failure to cross out the phrase "Supreme Court" and replace it with "Family Court of Appeal", as that conclusion would deprive the applicant of her right to appeal. The Family Court of Appeal also noted that in recognition of the problems that this created, the Supreme Court had amended Rule 10 of the Family Courts Procedural Rules (para. 21).

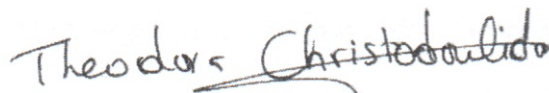
The above developments are in the Government's opinion capable of preventing similar violations of the Convention in the future.

IV. DISSEMINATION

The judgment had been disseminated to various domestic authorities, including the Supreme Court, the Ministry of Justice and Public Order, the Cyprus Bar Association, the Parliamentary Committee of Legal Affairs and the Parliamentary Committee of Human Rights. The dissemination was accompanied by letters setting out a summary of the judgment and explaining the reasoning for the Court's finding of violation. The judgment and its analysis was also published in the official website of the Cyprus Bar Association.⁵

V. CONCLUSION

In view of the above, the Republic of Cyprus has fully complied with its obligations under Article 46 paragraph 1 of the Convention and the Government invites the Committee of Ministers to close the examination of the case.



Theodora Christodoulidou

Senior Counsel of the Republic of Cyprus

on behalf of the Attorney General of the Republic of Cyprus

Nicosia, 30 September 2022

⁵https://www.cyprusbarassociation.org/files/HUMAN%20RIGHTS%20EUROPEAN%20COURT/14195-15_35686-16.pdf