



Elena Christofi

Court reaffirms principle of awarding damages on degree of liability basis



December 20 2016 | Contributed by Andreas Neocleous & Co LLC

Litigation, Cyprus

- ◉ Introduction
- ◉ Facts
- ◉ Decision

Introduction

A recent decision of the Larnaca District Court reaffirms the well-established principle that punitive and exemplary damages can be awarded on the basis of the degree of liability. The case related to the deaths of twin brothers Christakis and Miltiades Christoforou, who were among 13 people killed when containers holding munitions exploded in July 2013. At the time, the brothers were serving at the naval base at which the explosion occurred.

The defendant, the Republic of Cyprus, accepted liability during the trial on a full liability basis; the punitive and exemplary damages to be awarded – beyond the bereavement damages for the family of the deceased, which had been set at just over €17,000 – remained to be determined. The Larnaca District Court followed the facts and evidence that had been established in an earlier criminal trial before the Larnaca Assize Court regarding the explosion.

Facts

The Republic of Cyprus admitted that it had indisputably and categorically flagrantly violated its obligation under Article 2 of the European Convention on Human Rights to protect the lives of the deceased. Beyond the substantive acceptance of liability and the explicit admission of having violated the right to life, the court stated that the specific circumstances of the case were of importance given the claim for punitive and exemplary damages. Having been aware from the outset of the dangerous nature of the cargo, the defendant stored it without adequate protection, in conditions which caused it to deteriorate and become even more dangerous. It allowed the cargo to be stored on government property for 29 months in contravention of the relevant safety regulations and did not take the appropriate, or even the minimum, measures required to protect the lives of individuals who could potentially be endangered as a result. The deceased were among such individuals, having been called to the immediate vicinity of the containers to help fight the fire that had broken out in them. The republic's negligence, through its officials and representatives, was criminal in nature.

Decision

In determining the damages to be awarded, the court took into consideration the violation by the Republic of Cyprus of the right to life under Article 2 of the European Convention on Human Rights and Article 7 of the Cyprus Constitution. It concluded that the defendant had complete control over the containers and was responsible for creating hazardous circumstances in the naval base to which it had relocated them, thus exposing the deceased to a life-threatening risk and demonstrating criminal negligence in failing to protect their lives. The court also referred to settled case law in cases in which civil courts had judged the conduct of the defendant to be so reprehensible as to merit the award of punitive damages on moral grounds. The court concluded that an award of punitive and exemplary damages was justified by the oppressive and unconstitutional nature of the actions taken by government officials, which had also been taken into consideration in the determination of the non-monetary compensation to be awarded.

The court awarded the plaintiffs just over €257,000 in respect of each death, together with interest from the date on which the action had been filed, with just over one-third of the damages awarded to each of the parents of the deceased men and the remainder (a little under one-third) awarded to their sister.

For further information on this topic please contact Elena Christofi at Andreas Neocleous & Co LLC by telephone (+357 25 110 000) or email (elena.christofi@neocleous.com). The Andreas Neocleous & Co LLC website can be accessed at www.neocleous.com.

The materials contained on this website are for general information purposes only and are subject to the disclaimer.

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription.