

Litigation - Cyprus

Reminder: punishment must consider defendant's personal circumstances

Contributed by **Andreas Neocleous & Co LLC**

February 11 2014

The Limassol District Court recently took the opportunity to reiterate the principle that the sentence imposed in a criminal trial must reflect not only the circumstances and severity of the offence, but also the personal circumstances and conduct of the defendant.⁽¹⁾

The defendant had pleaded guilty to the charge of causing death by a reckless and dangerous act, and was duly convicted according to Article 210 of the Penal Code. The offence carries a maximum sentence of four years' imprisonment or a fine of €4,271.

In making its decision, the court explained that the critical factor for determining whether a sentence of imprisonment is appropriate in such a case is whether the defendant's driving was consistently reckless or dangerous, or whether the act that brought about the fatality was a momentary lapse of concentration. In the case at hand the defendant, who was driving on a main road, turned right at a junction across oncoming traffic, colliding with the deceased, who was riding on a motorcycle in the opposite direction, and fatally injuring him.

Choosing not to impose a custodial sentence, the court took into account the following mitigating factors:

- The act was due to a momentary lapse of concentration and not the outcome of consistently reckless or dangerous behaviour.
- The deceased was also guilty of contributory negligence, since he had been riding without a helmet and his death was the result of injuries to his cranium.
- The defendant was of good character with no criminal record and had pleaded guilty before the matter came to trial.
- The prosecuting authorities had delayed prosecution by a year.

Accordingly, the court ordered that the defendant pay a fine of €2,500 and receive five penalty points and a one-year suspension of her driving licence.

For further information on this topic please contact Marios Aristou at Andreas Neocleous & Co LLC by telephone (+357 25 110 000), fax (+357 25 110 001) or email (marios.aristou@neocleous.com). The Andreas Neocleous & Co LLC website can be accessed at www.neocleous.com.

Endnotes

⁽¹⁾ *Chief of Police of Limassol v Paneva* 13655/2011 District Court of Limassol.

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. Register at www.iloinfo.com.

Author

Marios Aristou

