



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

**CASE OF ANGELOPOULOS v. GREECE**

*(Application no. 49215/99)*

JUDGMENT

STRASBOURG

11 April 2002

**FINAL**

*11/07/2002*

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.



**In the case of Angelopoulos v. Greece,**

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mrs F. TULKENS, *President*,

Mr C.L. ROZAKIS,

Mr G. BONELLO,

Mr E. LEVITS,

Mrs S. BOTOCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 21 March 2002,

Delivers the following judgment, which was adopted on that date:

**PROCEDURE**

1. The case originated in an application (no. 49215/99) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Greek nationals, Mr Nikolaos Angelopoulos and Mrs Anastasia Angelopoulos (“the applicants”), on 23 December 1998.

2. The Greek Government (“the Government”) were represented by the Delegate of their Agent, Mr M. Apessos, Senior Adviser at the State Legal Council, and Mrs M. Papida, Legal Assistant at the State Legal Council.

3. The applicants alleged a violation of the “reasonable time” requirement of Article 6 § 1 of the Convention.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

5. On 3 May 2001 the Court declared the application admissible.

6. The applicants, but not the Government, filed observations on the merits (Rule 59 § 1).

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

#### A. Background to the case and general outline of the proceedings

7. The applicants are the co-owners of a plot of land in Drafi. Adjacent to their plot, but separated by a road, there are three plots of land owned by a co-operative of civil servants of the Ministry of Agriculture, Mr M and Mr Y respectively. On 11 May 1974 an area comprising the three plots of land in question was included in the town plan. The applicants' plot was not. In September 1977 a decision drawing the exact limits of the area covered by the town plan was issued.

8. On 1 June 1989 the applicants obtained a permit for the reconstruction of a house on their plot of land.

9. On 15 February 1992 the forests' inspector requested the authorities to revoke the applicants' reconstruction permit on the ground that their plot of land was in a forest area. On 20 February 1992 the first applicant lodged with the Council of State an application for judicial review of the forests' inspector's request.

10. On 6 April 1993 the first applicant lodged with the Council of State an application for judicial review of a series of acts in essence preparing the modification of the town plan of 11 May 1974.

11. On 19 July 1993 the authorities proposed a modification of the town plan. The applicants objected.

12. On 12 January 1994 the authorities informed the applicants that they were not entitled to compensation for the expropriation of part of their plot of land that would result from the 19 July 1993 modification of the town plan. As a result, the expropriation in question needed not be revoked.

13. On 31 January 1994 the prefect decided that the applicants' plot of land was part of an area that should be turned back into a forest.

14. On 22 April 1994 the applicants applied to the Council of State for judicial review of the refusal of the authorities to revoke the expropriation plan. The proceedings are still pending.

15. On 5 May 1994 the prefect issued a second decision to the effect that the applicants' plot of land was part of an area that should be turned back into a forest.

16. On 4 July 1994 the applicants applied to the Council of State for judicial review of the prefect's decision of 5 May 1994. The proceedings are still pending.

17. On 2 November 1994 the applicants applied for judicial review of the prefect's decision of 31 January 1994. The proceedings are still pending.

18. On 2 October 1995 the head of the district (*periferiarhis*) issued a decision confirming the decisions of 31 January 1994 and 5 May 1994 of the prefect. On 27 November 1995 the applicants applied to the Council of State for judicial review of this decision. The proceedings are still pending.

19. On 12 September 1996 the applicants intervened in the proceedings instituted in the Council of State by the co-operative against the forests' inspector.

20. On 9 July 1997 the Council of State at the request of the minister examined a draft decree with a new proposed modification of the town plan. It found it to be illegal.

21. On 15 May 1998 Y obtained a new building permit. On 1 October 1998 the applicants applied to the Council of State for judicial review of the relevant decision. The proceedings are still pending.

### **B. Proceedings instituted on 6 April 1993**

22. On 5 January 1994 the first applicant submitted additional observations for the judicial review of the modification of the town plan. The Council of State fixed the date of the hearing for 7 December 1994, but on that date it decided to adjourn the case until 5 April 1995 and then until 29 November 1995 and 8 May 1996. On 22 April 1996 the applicant submitted fresh observations whereby he declared that he also challenged another act, the Presidential Decree which approved the modification of the town plan. Moreover, the first applicant rebutted the arguments of the co-operative (which had intervened in the proceedings in favour of the State on 22 March 1995) and submitted thirty-nine new documents for consideration by the Council of State.

23. As a result, the hearing was adjourned again until 18 December 1996 and then until 8 January 1997, 12 March 1997, 21 May 1997 and 15 October 1997. On 25 September 1997 and again on 6 October 1997 the applicant submitted additional observations and evidence. On 13 October 1997 he challenged the reporting judge and another judge of the bench of the Council of State and thus the hearing was adjourned until 5 November 1997. On that date the Council of State dismissed the challenge.

24. On 19 November 1997, the first applicant submitted further observations and further evidence.

25. On 29 June 1998 the Council of State rejected the first applicant's application (judgment no. 2777/1998) on the ground that "preparatory acts" could not be challenged. The applicant received a copy of the judgment on 1 October 1998.

26. On 27 October 1998 the applicant asked for the reopening of the proceedings concerning his application of 6 April 1993 on the ground that the Council of State had not taken into consideration certain documents which had been missing from the file.

27. On 26 March 1999 the President of the Fifth Chamber of the Council of State decided that the application would be heard on 20 October 1999. Thus the Council of State granted the applicant's request to join this application to the application which he had lodged with his wife on 22 April 1994. On 29 September 1999 the applicant submitted observations in regard to this latter application. On 20 October 1999 the case was adjourned until 2 February 2000. However, on 17 January 2000 the reporting judge resigned and the Council of State adjourned the examination of the case until 17 May 2000. On that date a new reporting judge was appointed and the hearing fixed on 22 November 2000.

### **C. Proceedings instituted on 22 April 1994**

28. On 22 April 1994 the applicants applied to the Council of State for judicial review of the refusal of the authorities to revoke the expropriation plan. A hearing was listed for 5 April 1995. On that date the Council of State adjourned the consideration of the case until 13 December 1995, 5 June 1996, 13 November 1996, 2 April 1997, 24 September 1997 and 8 April 1998. According to the Government, these adjournments were decided by the Council of State in agreement with the applicants who wanted the Council of State to consider first their application introduced on 6 April 1993.

29. On 2 December 1998 the hearing was adjourned again because the reporting judge was on sabbatical leave. As a result, the presiding judge appointed another reporting judge and adjourned the consideration of the case until 12 May 1999.

30. In view of the new date of the hearing, the applicants submitted additional observations whereby they challenged three more acts, in addition to those indicated in their application of 22 April 1994. Consequently, the hearing was adjourned until 20 October 1999, when the Council of State would examine the application made by the first applicant on 27 October 1998.

31. On 19 January 2000 the case was struck off the list and returned to be heard by the Administrative Court of Appeal, by virtue of article 29 § 1 of Law no. 2721/1999.

32. When the Government submitted their observations to the Court, the case file had not been transmitted to the Administrative Court of Appeal because, on 25 January 2000, the applicants invited the Council of State to hold a hearing for both applications of 22 April 1994 and 27 October 1998. The hearing was set down for 27 September 2000 but was adjourned until 22 November 2000, in order for the applicant's request for a joint hearing with his applications of 6 April 1993 and 27 October 1998 to be satisfied.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

33. The applicants allege a violation of Article 6 § 1 of the Convention which, insofar as relevant, provides:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

34. The Government submit that it transpires from the facts that the applications lodged on 6 April 1993 and 22 April 1994 were heard within the shortest possible period of time, taking into account their tactics which consisted in lodging numerous applications with the Council of State. These applications often overlapped and it was difficult for the Council of State to correlate them. Moreover, the applicants submitted numerous observations, which alternatively extended or limited the subject-matter of the proceedings. They thus rendered their case complex and prevented the competent administrative authorities from transmitting in time their observations in reply. The reporting judges had to correlate each time the different applications and when they were ready to submit their report, the applicants had in the meantime modified the scope of the dispute.

35. In particular, the Council of State could not consider the application of 6 April 1994 before 5 April 1995, because the co-operative intervened in the proceedings only on 22 March 1995. The adjournments of 5 April 1995 and 29 November 1995 were justified because the reporting judge had to take into consideration the additional observations of the applicants submitted on 5 January 1994. The adjournment of 8 May 1996 was justified by the fact that the applicants had challenged some further acts and submitted new evidence. The remaining four adjournments until 21 May 1997 were justified by the need for the reporting judge to correlate the application of 6 April 1993 with a previous application introduced on 3 August 1992. All these adjournments were to the benefit of the applicants who had thus the opportunity to improve the grounds of appeal contained in their original application. It should be stressed that the application of 6 April 1993 was manifestly ill-founded because it challenged acts which had not an executory character. As a result, the applicants submitted further observations on 24 September 1997 and 6 October 1997. Moreover, on 13 October 1997, two days before the hearing of 15 October 1997, the applicants challenged the reporting judge.

36. The two adjournments of the hearing in the application of 27 October 1998 for the reopening of the proceedings were due to the resignation of the reporting judge. Finally, the fixing of the hearing on

20 October 1999 and 22 November 2000 took account of the applicants' request for a joint hearing in both proceedings.

37. As regards the hearing in the application of 22 April 1994, the adjournment (until 2 December 1998) was agreed between the reporting judge and the applicants who considered that this application should be examined after that of 6 April 1993. The adjournment on 2 December 1998 was due to the fact that the reporting judge had taken a sabbatical and the new reporting judge was obliged to adjourn once more (until 20 October 1999) because the applicants had submitted additional observations whereby they modified their complaints. The adjournment on 20 October 1999 was decided because the applicants further modified their complaints and submitted new evidence.

38. Finally, the applicants did not try to accelerate the proceedings and never invited the Council of State to give priority to their applications.

39. The applicants maintain that the real cause of the delay in the proceedings was the persistent refusal of the Council of State to join both applications, as it finally did on 20 December 2000 and the unjustifiable connection of the application of 6 April 1993 with the application lodged on 3 August 1992. However, the latter concerned only the question whether their plot was part of a forest area. The reason for which they introduced the application for the reopening of the proceedings was the loss by the Council of State of a memorandum whereby they invited it to hold a joint hearing.

40. Moreover, the Council of State refused for nearly two years to attribute the applicants' cases to the same reporting judge and, despite the time which had already elapsed, decided to refer the application of 22 April 1994 to another court. Finally, their wish to have the application of 6 April 1993 examined first was due to the above-mentioned refusal to join the two applications.

41. The Court notes that the proceedings under examination form part of a whole set of proceedings instituted by the applicants. They began on 6 April 1993 and 22 April 1994, with the application to the Council of State, and are still pending, the first before the Council of State (after an application for the reopening of the proceedings), the second before the Athens Administrative Court of Appeal. The first have lasted so far approximately eight years and ten months and the second seven years and ten months.

42. The Court reiterates that the reasonableness of the length of the proceedings is to be assessed in the light of the circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see the *Richard v. France* judgment of 22 April 1998, *Reports of Judgments and Decisions* 1998-II, p. 824, § 57).

43. The Court further reiterates that only delays imputable to the relevant judicial authorities can justify a finding that a reasonable time has

been exceeded, contrary to the Convention. Even in legal systems applying the principle that the procedural initiative lies with the parties, the latter's attitude does not absolve the courts from the obligation to ensure the expeditious trial required by Article 6 § 1.

44. The Court accepts, as it is stressed by the Government, that the applicants contributed to the prolongation of the proceedings by submitting numerous memoranda which modified the subject-matter of the dispute. However, it notes that the proceedings related to the first application were adjourned eight times and the applicant submitted additional observations only twice before the dates set down for the hearing. Moreover, although the reporting judge in the proceedings related to the reopening of the file resigned on 17 January 2000, he was not replaced until 17 May 2000.

45. As regards the second set of proceedings, the Court notes that they were adjourned nine times and that the case was subsequently referred to another court, which had not even received the case file until the date on which the Government submitted their observations to the Court. The Council of State waited several months (until 2 December 1998) before it decided to replace the reporting judge who was on a sabbatical leave.

46. The Court considers that all these delays are attributable to the State. Making an assessment of the whole period, the Court finds that the "reasonable time" requirement has not been respected in these cases.

47. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

### A. Damage and costs and expenses

49. The applicants claim 15,000 EUR for non-pecuniary damage and for costs and expenses before the national courts and the Court, but they do not distinguish the amounts. The first applicant affirms that he is himself a lawyer and that the time he spent on working on his case did not allow him to deal with the cases of his clients whom he represented and thus he has lost certain fees.

50. The Government state that they are willing to pay both applicants 2 000 000 GRD for non-pecuniary damage.

51. The Court considers that the applicants have sustained non-pecuniary damage. Having regard to the fact that they had contributed to a certain extent to the length of the proceedings and making an assessment on an equitable basis in accordance with Article 41, it awards them 10,000 EUR.

52. As regards costs and expenses, the Court considers that the first applicant, being a lawyer, is entitled to receive fees only for the proceedings before the Court. Accordingly, it awards him 1,500 EUR.

### **B. Default interest**

53. According to the information available to the Court, the statutory rate of interest applicable in Greece at the date of adoption of the present judgment is 6% per annum.

## **FOR THESE REASONS, THE COURT UNANIMOUSLY**

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
2. *Holds*
  - (a) that the respondent State is to pay both applicants, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts plus any value-added tax that may be chargeable:
    - (i) EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage;
    - (ii) EUR 1,500 (one thousand and five hundred euros) in respect of costs and expenses;
  - (b) that simple interest at an annual rate of 6% shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 11 April 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH  
Registrar

Françoise TULKENS  
President