CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

CASE OF VASILOPOULOU v. GREECE

(Application no. 47541/99)

JUDGMENT
(Just satisfaction)

STRASBOURG

26 September 2002

FINAL

21/05/2003

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 Vasilopoulou 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. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 5 September 2002,

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

PROCEDURE

1. The case originated in an application (no. 47541/99) 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 a Greek national, Mrs Margarita Vasilopoulou ("the applicant"), on 28 January 1999.

2. In a judgment delivered on 21 March 2002 ("the principal judgment"), the Court held that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 because of the refusal of the authorities to comply with a judgment of the Court of Audit awarding the applicant an additional pension).

3. Under Article 41 of the Convention the applicant sought just satisfaction of pecuniary and non-pecuniary damage and costs and expenses.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (ibid., § 34, and point 5 of the operative provisions).

5. The applicant and the Government each filed observations.

THE LAW

6. 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

7. The applicant claims as pecuniary damage the sum awarded to her by the Court of Audit, that is 14,926.49 euros (5,086,200 GRD), plus interest at a rate of 6% from the date on which her appeal was served to the Minister of Finance (15 January 1996) and plus interest at a rate of 10% from the date on which the Audit Court's judgment was served to the same Minister (20 May 2001). As regards the second interest, the applicant maintains that it corresponds to the annual deposit interest rate offered by banks to individuals and which would have applied to her had she credited her bank account with the amount awarded by the Court of Audit. On the whole, she claims 55,821.11 euros (19 021 044 GRD).

8. The applicant submits that although she has already received some of the instalments fixed by decision No. 71320 of the Minister of Finance, she considers them as down payment until the whole pension is paid out by the Government without conditions and in full compliance with the Audit Court's judgment. Furthermore, in a declaration sent to the Minister of Finance on 11 January 2001 she stated that she considered these instalments as advance payments and she expressly reserved her right to submit further demands in relation to the execution of the judgment.

9. The applicant further requests 29,347.03 euros (10,000,000 GRD) in compensation for non-pecuniary damage. She maintains that the refusal of the authorities to comply with the Audit Court's judgment offended her personality, her well-being and proprietary rights and caused her over the period of many years insecurity as to the protection of her rights guaranteed by the Convention. This sum appears reasonable since the Greek State has put itself and its monetary policy above and over her citizen rights without due justification, therefore devaluating any notion of the rule of law.

10. The Government submit that by virtue of the judgment of the Court of Audit, the monthly additional amount of pension payable to the applicant was set to 103 800 GRD for the period from 1 December 1991 to 31 December 1995 and fixed the total amount to 5 086 200 GRD. By its Decision No. 71320 of 30 June 2000 regulating the enforcement of the above-mentioned judgment, the Minister of Finance provided for seven instalments expiring on the following dates: 2 January 2001, 2 July 2001, 2 January 2002, 2 July 2002, 2 January 2003, 2 July 2003 and 2 January

2004. The applicant has already received the first three instalments and will also receive the rest of them. Consequently, a decision by the Court to award the applicant 5 086 200 GRD for a second time would not be justified.

11. The Government consider that an amount of 2,934.70 euros would be sufficient for pecuniary damage. This amount is calculated on the sum awarded by the Court of Audit on the basis of an interest rate of 6% and corresponds approximately to the periods of time fixed by the judgment of the Court of Audit (see paragraph 7 of the principal judgment) and those fixed by decision No. 71320 of the Minister of Finance (see paragraph 12 of the principal judgment).

12. As regards non pecuniary damage, the Government state that they are prepared to pay 2,934.70 euros. This amount corresponds to that decided by the Court in previous cases (*Logothetis v. Greece* (Just Satisfaction), n° 46352/99, § 10).

13. The Court recalls that in the case of Logothetis v. Greece, it decided to award the amount determined by the Court of Audit plus 6% simple interest *per annum* on that sum for the period between the date of the judgment of the Court of Audit and that of the judgment of the Court. The Court will follow the same method in the present case, bearing in mind the fact that part of the amount due to the applicant has already been paid to her by three of the total of seven instalments (3 x 1,790.35 euros). It thus remains to pay to the applicant, for pecuniary damage, an amount equivalent to four instalments of 1,790.35 euros each, that is 7,161 euros plus simple interest of 6% *per annum* for the period between the date of the judgment of the Court of Audit and that of the judgment of the Court.

14. For non-pecuniary damage the Court considers reasonable to award the same amount as in the case of Logothetis, that is 2,935 euros.

B. Costs and expenses

15. For costs and expenses the applicants claims 13,000 euros for counselling and drafting of legal documents for the proceedings before the Court.

16. The Court considers with the Government that the applicant, who was not represented by a lawyer before the Court, is not entitled to any reimbursement for costs and expenses.

C. Default interest

17. The Court considers that the default interest should be fixed at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds*

   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts:

   (i) EUR 7,161 (seven thousand one hundred and one euros) in respect of pecuniary damage, plus simple interest at an annual rate of 6% for the period between 9 September 1997 and the date of delivery of the present judgment;

   (ii) EUR 2,935 (two thousand nine-hundred and thirty-five euros) in respect of non-pecuniary damage;

   (b) that simple interest at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points shall be payable from the expiry of the above-mentioned three months until settlement;

2. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 September 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Françoise TULKENS
President