



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

FIRST SECTION

CASE OF IOANNIS PAPADOPOULOS v. GREECE

(Application no. 52848/99)

JUDGMENT

STRASBOURG

9 January 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 Ioannis Papadopoulos 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,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER, *judges*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 5 December 2002,

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

PROCEDURE

1. The case originated in an application (no. 52848/99) 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, Mr Ioannis Papadopoulos (“the applicant”), on 20 August 1999.

2. The Greek Government (“the Government”) were represented by Mrs E. Skiani and Mr I. Bakopoulos of the Legal Council of the State, Acting Agents.

3. The applicant complained, in particular, under Article 6 § 1 of the Convention about the length of the criminal proceedings which were instituted against him.

4. The application was allocated to the Second 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.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

6. By a decision of 29 November 2001 the Court declared the application partly admissible.

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

8. The applicant was born in 1947 and lives in Athens.

9. On 16 July 1998 the applicant was arrested in *flagrante delicto* for entering without prior authorisation to the operation block of the hospital where he was working. He was placed in detention for one day.

10. On 17 July 1998 the Athens First Instance Criminal Court found the applicant guilty and sentenced him to six months imprisonment. The same day the applicant appealed against this decision. His appeal has suspensive effect. The hearing was scheduled for 16 September 2002.

THE LAW

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

11. The applicant complained that the length of the proceedings had exceeded a reasonable time within the meaning of Article 6 § 1 of the Convention, which provides as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

12. The Government affirmed that the length of the proceedings was not open to criticism.

A. Period to be taken into consideration

13. The Court notes that the proceedings started on 16 July 1998 when the applicant was arrested and are still pending before the Athens Court of Appeal. They have therefore lasted so far more than four years and four months for two levels of jurisdiction.

B. Reasonableness of the length of the proceedings

14. The Court recalls that the reasonableness of the length of the proceedings must be assessed in the light of the particular circumstances of the case and with the help of the following criteria: the complexity of the case, the conduct of the parties, the conduct of the authorities dealing with the case and what was at stake for the applicant in the litigation (see, among many others, *Gast and Popp v. Germany*, no. 29357/95, § 70, ECHR 2000-II).

15. The Court notes that the case was not particularly complex and that the applicant's conduct did not cause any delay in the proceedings.

16. As regards the conduct of the domestic courts, the Court notes that the Government have not provided any convincing explanation for the delay before the Athens Court of Appeal, where the case is pending since 17 July 1998.

17. The Court recalls that, as it has repeatedly held, Article 6 § 1 imposes on the Contracting States the duty to organise their judicial systems in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time (*Gast and Popp v. Germany*, op. cit., § 75).

18. The Court concludes that the “reasonable time” requirement was not satisfied. There has accordingly been a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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

20. The applicant claimed USD 1,000,000 for non-pecuniary damage.

21. The Government argued that the applicant should be granted EUR 2,934 for non-pecuniary damage.

22. The Court accepts that the applicant suffered damage of a non-pecuniary nature as a result of the length of the proceedings. It decides, on an equitable basis, to award the applicant EUR 4,000 as compensation for non-pecuniary damage.

B. Default interest

23. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

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 the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 4,000 (four thousand euros) in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 January 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Françoise TULKENS
President