

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

FIRST SECTION

CASE OF JUSUF v. GREECE

(Application no. 4767/09)

JUDGMENT

STRASBOURG

10 January 2012

This judgment is final but it may be subject to editorial revision.



In the case of Jusuf v. Greece,

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

Anatoly Kovler, *President,*
Mirjana Lazarova Trajkovska,
Linos-Alexandre Sicilianos, *judges,*
and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 6 December 2011,

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

PROCEDURE

1. The case originated in an application (no. 4767/09) 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 Macedonian national of "the Former Yugoslav Republic of Macedonia", Mr Arian Jusuf ("the applicant"), on 18 December 2008.

2. The applicant was represented by Mr V. Georgiev, a lawyer practising in Bitola. The Greek Government ("the Government") were represented by their Agent's delegates, Mr I. Bakopoulos and Ms G. Kotta, Legal Assistants at the State Legal Council.

3. On 2 September 2010 the President of the First Section decided to give notice of the application to the Government.

4. The Government of "the Former Yugoslav Republic of Macedonia", which have been informed of the application in view of the applicant's nationality (Article 36 § 1 of the Convention and Rule 44 of the Rules of Court), did not wish to intervene.

5. In accordance with Protocol No. 14, the application was allocated to a Committee of three Judges.

THE FACTS

6. The applicant was born in 1965 and actually lives in Bitola ("the Former Yugoslav Republic of Macedonia").

7. On 28 February 2005 he was arrested by the Greek police and criminal proceedings were brought against him for drug related offences.

8. On 10 March 2006 the Thessaloniki First Instance Criminal Court convicted the applicant and sentenced him to 15 years of imprisonment and a fine of 30,000 euros (EUR) (judgment no. 345/2006).

9. On the same date the applicant lodged an appeal with the Thessaloniki Criminal Court of Appeal challenging the first instance court's findings and its evaluation of the evidence.

10. The hearing, which was originally set for 10 December 2008, was subsequently adjourned to 27 November 2009 due to lawyers' and judicial officials' strike.

11. By judgment dated 27 November 2009 the Court of Appeal reduced the applicant's sentence to fourteen years of imprisonment and a fine of 20,000 EUR (judgment nos. 1887-88/2009). According to the case file, no appeal on points of law was lodged challenging this judgment.

12. On 2 March 2011 the applicant was deported to "the Former Yugoslav Republic of Macedonia".

THE LAW

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

13. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

14. The Government contested that argument.

15. The period to be taken into consideration began on 28 February 2005 when the applicant was arrested and criminal proceedings were brought against him and ended on 27 November 2009 when judgment nos. 1887-88/2009 of the Court of Appeal were published. It thus lasted approximately four years and nine months for two levels of jurisdiction.

A. Admissibility

16. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

17. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case

and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

18. The Court observes that, even though the overall length of the proceedings in the present case was four years and nine months for two levels of jurisdiction, the proceedings before the Thessaloniki Criminal Court of Appeal lasted more than three years and eight months, which appears to be excessive.

19. In particular, the Court is of the opinion that the period of two years and nine months that lapsed from the date the applicant lodged his appeal and the date the case was initially set for hearing was excessive and was completely attributable to the national authorities. Thus, the Court observes that national courts' handling of the case did not facilitate and unjustifiably prolonged its timely completion. In the Court's opinion, the length of the proceedings can only be explained by the failure of the domestic courts to deal with the case diligently (see *Gümüÿten v. Turkey,* no. 47116/99, §§ 24-26, 30 November 2004).

20. In view of the above, having regard to its case-law on the subject, the duration of the appellate proceedings and the delays attributable to the authorities, the Court considers that in the instant case the length of the proceedings failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. 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."

22. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no call to award the applicant just satisfaction.

Done in English, and notified in writing on 10 January 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach	Anatoly Kovler
Deputy Registrar	President