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

THIRD SECTION

DECISION

Application no. 71375/17
Leonidas CHONDROGIANNIS
against Greece

The European Court of Human Rights (Third Section), sitting on 19 May 2026 as a Committee composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Lətif Hüseynov*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 71375/17) 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") on 29 September 2017 by a Greek national, Mr Leonidas Chondrogiannis ("the applicant"), who was born in 1951 and lives in Piraeus, and was represented by Mr G. Theodoropoulos and Ms I. Vlachou, lawyers practising in Piraeus;

the decision to give notice of the complaints under Articles 8 and 12 of the Convention and under Article 1 of Protocol 1 to the Convention to the Greek Government ("the Government"), represented by their Agent, Ms N. Marioli and their Agent's delegate, Ms S. Trekli, Senior Advisor at the State Legal Council, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the non-recognition for pension purposes of the years the applicant was away from the navy following his dismissal for getting married without the service's prior authorisation.

2. The applicant was dismissed from the navy following a decision of the Minister of Commercial Maritime Affairs, dated 10 December 1976, for

getting married without seeking the authorisation of the service, as required by Article 65 of Law no. 1400/1976, as in force at the material time.

3. Following the publication of Law no. 1339/1983 concerning the restitution of officers of the army and navy, the applicant requested his restitution and, by a decision of 27 August 1984 of the Commander-in-Chief, the applicant returned to service.

4. By an application dated 23 September 1989, the applicant requested the annulment of the tacit refusal of the Commander-in-Chief to recognise the applicant's marriage and to recognise the years the applicant had spent out of service as a valid service period, including for pension purposes. He relied on Article 18 of Law no. 1848/1989, which provided that all relevant consequences deriving from marriages that had been entered into without authorisation from the service were to be lifted for army officers.

5. By decision no. 1677/1991, the Piraeus Administrative Court of Appeal granted the application in so far as it concerned the recognition of years as a valid period of service, including for pension purposes. The applicant's marriage had already been recognised by a decision dated 23 February 1990 of the Commander-in-Chief.

6. By a presidential decree dated 12 August 1992, the above-mentioned decision was enforced and the applicant was promoted retroactively to a higher rank following the recognition of the years he had spent out of the navy as a valid service period.

7. Following an appeal by the Minister of Commercial Maritime Affairs, the Supreme Administrative Court reversed decision no. 1677/1991 of the Piraeus Administrative Court of Appeal by its decision no. 2708/1998. It held that Law no. 1848/1989 referred to the lifting of disciplinary sentences of those who had gotten married without the service's permission and to the recognition of the marriage as such, but it did not allow for the recognition of the years spent away from service for their salary and pension advancements. For such arrangement, there should have been a special and express reference in the law.

8. Following that decision, the Presidential decree dated 24 August 1999 repealed the Presidential decree dated 12 August 1992 in so far as it recognised the years the applicant had spent out of service as a valid service period. The Ministry of Commercial Maritime Affairs, following an opinion of the State Legal Council, did not proceed to further actions as regards the status, salary and allowances the applicant had received, given the years that had passed since the applicant's promotion and relevant decisions concerning his salary.

9. The applicant retired from the navy on 6 September 2002, following his relevant application, elevated to the rank of Lieutenant Commander (*πλωτάρχης)* on day of his retirement.

10. By decision no. 487/2003 of the General Accounting Office of the State, the monthly pension of the applicant was fixed, without counting the

years he had spent out of service. The applicant lodged an appeal which was dismissed by the Pension Control Committee. The applicant did not lodge any objection to that dismissal.

11. On 20 September 2006, following the publication of decision no. 2176/2004 of the Plenary of the Supreme Administrative Court (see paragraph 19 below), the applicant requested anew that the years he had spent out of service be calculated for his pension. The Commander-in-Chief granted that request on 1 December 2006 and recognised retroactively those years in respect of the service of his pension.

12. On 18 March 2008 the applicant, relying on the above-mentioned decision of the Commander-in-Chief, lodged an application with the General Accounting Office of the State, requesting the modification of his pension in order for the years spent away from service to be taken into account. That application was dismissed by decision no. 40269/2009, which stated that the decision of the Commander-in-Chief was not duly reasoned because, on the one hand, it disregarded decision no. 2708/1998 of the Supreme Administrative Court that had ruled irrevocably on the issue, and on the other hand, Article 18 of Law no. 1848/1989 did not concern pensions, as it had not been published in accordance with the procedure provided by Article 73 § 2 of the Constitution.

13. The applicant lodged an appeal with the Court of Auditors, which was dismissed by decision no. 809/2012. The applicant lodged an appeal on points of law with the Plenary of the Court of Auditors, which was likewise dismissed by decision no. 550/2007, published on 5 April 2007 and served on the applicant on 12 June 2007. The domestic court held that Article 65 of Presidential Decree no. 169/2007 did not apply in the applicant's case, since there had been no final domestic judgment in his favour recognising the unlawfulness of the disciplinary measure in a manner capable of binding the pension authorities and the Court of Auditors as regards the reversing of the effects on his pension. It further held that the applicant could also not derive a right to pension readjustment from judgment no. 2176/2004 of the Plenary of the Supreme Administrative Court, having regard to the strict interpretation of pension provisions, particularly those of an exceptional nature concerning the fictitious recognition for pension purposes of periods spent out of service. Lastly, the court found that the decision of the Commander-in-Chief of 1 December 2006 had been adopted in disregard of the Supreme Administrative Court's judgment no. 2708/1998, which had become final and could not be overridden by an administrative act. It therefore dismissed the applicant's appeal on points of law.

14. The applicant complained under Articles 8 and 12 of the Convention and under Article 1 of Protocol No. 1 to the Convention about the non-recognition for pension purposes of the years he had spent out of service.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Domestic legislation

1. Law no. 1290/1972

15. The relevant provision of Law no. 1290/1972, as in force at the material time, read as follows:

Article 1

"Non-commissioned officers (male and female) of the military, the rural police, the coast guard, the municipal police and the fire department, as well as male and female rural police officers, coast guard officers, municipal police officers and firefighters ... are prohibited from entering into marriage without the permission of the commander of the force to which they belong ..."

2. Law no. 1339/1983

16. The relevant provisions of Law no. 1339/1983, as in force at the material time, read as follows:

Article 5

"...

2(a). Non-commissioned officers of the military, the rural police, the municipal police and the fire department who were dismissed or fired from the service because they were considered unfit for permanent posts during the period from 24 July 1974 until the entry into force of the present law ... [who] wish to be reinstated into service have the right to request a re-examination of their case by submitting a relevant request within 60 days from the publication of the present law.

...

3. The time spent out of service of persons who will be reinstated in the service or will come back into active service in accordance with the provisions of this law is to be recognised neither as a period of valid or pensionable service nor as a period of contribution to insurance funds of the officers."

3. Law no. 1848/1989

17. Article 18 of Law no. 1848/1989 provides as follows:

Article 18

"...

2. Officers' marriages that have been entered into before the entry into force of the present law without the permission of the military service shall be recognised following a request by the interested parties to the competent directorate of the relevant sector ... All consequences that have arisen from the marriage entered into without permission shall be lifted for the serving officers by a decision of the chief of the relevant sector."

4. Presidential Decree no. 169/2007

18. Article 65 of Presidential Decree no. 169/2007 provides as follows:

Article 65

"An act of the Administration that has been recognised as unlawful by a final decision or by a settlement shall be considered not to have been executed as regards its consequences on the right to pension, and the time spent out of service because of it shall be considered a valid period of pensionable service."

B. Domestic case-law

19. In accordance with judgment no. 2176/2004 of the Plenary of the Supreme Administrative Court, in principle, the Administration is not obliged to annul its unlawful acts for which the statutory time-limit for challenging them has expired or which have been unsuccessfully challenged. However, in cases where an individual administrative act is annulled by a final court decision on the grounds that it was based on a provision contrary to a rule of law of superior legal force or on a regulatory act of the Administration that lacked a lawful basis, this principle applies to other individual administrative acts of similar content passed on the basis of the same provision, provided that a request for their revocation is submitted to the Administration within a reasonable time after the publication of the court's annulment decision by a person with a legitimate interest. In such a case, the Administration is obliged to re-examine the legality of the act and proceed with its revocation, within the framework of the discretionary authority or binding jurisdiction granted by the legislature for passing it, taking into account the reasons of overriding public interest that may require or preclude its revocation, the need to protect the rights of third parties acquired in good faith through its application, and the time that has elapsed since it was passed. Any failure of the Administration to annul, under the above conditions, its unlawful act – which is to be presumed once three months have elapsed without action following the submission of the interested party's application – constitutes a failure to take the required legal action, which may be challenged by an application for annulment.

THE COURT'S ASSESSMENT

A. Complaint under Articles 8 and 12 of the Convention

20. The applicant complained that the fact that he had been discharged from the navy for getting married without permission from his service and had later been reinstated without any recognition for pension purposes of the years he had spent out of the navy constituted a violation of Articles 8 and 12 of the Convention.

21. The Court reiterates that it is master of the characterisation to be given in law to the facts of the case. Having regard to the substance of the applicant's grievance, it considers that the complaint communicated under Articles 8 and 12 of the Convention falls to be examined under Article 12 alone (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

22. The Government raised several objections as to the admissibility of the applicant's complaints. Firstly, they submitted that the applicant had not exhausted domestic remedies, as he had failed to use a judicial remedy against the dismissal of his objection concerning his pension (see paragraph 10 above) and had failed to rely on his rights under the Convention before the domestic courts. He had also failed to lodge an application for compensation under Article 105 of the Introductory Law to the Civil Code. They further argued that the decisions which had been the source of the alleged violation had been delivered more than six months before the lodging of the application with the Court. Lastly, they asserted that the applicant had lost his victim status, as his marriage had been recognised by the naval service and the applicant had reintegrated into the service.

23. The Court does not consider it necessary to examine the Government's objections, as the complaint is in any event inadmissible for the following reason. The essence of the applicant's grievance is not that he was prevented from marrying or that his marriage was denied legal recognition, but that the period during which he remained out of service following his dismissal was not taken into account for pension purposes. The impugned measure thus concerned the financial consequences of his previous dismissal rather than the exercise of the right to marry as such. In these circumstances, the complaint falls outside the scope of Article 12 of the Convention and is therefore incompatible *ratione materiae* with the provisions of the Convention (compare *F.P.J.M. Kleine Staarman v. the Netherlands*, no. 10503/83, Commission decision of 16 May 1985, Decisions and Reports (DR) 42, p. 162).

B. Complaint under Article 1 of Protocol No. 1 to the Convention

24. The applicant further complained that the non-recognition for pension purposes of the years he had spent out of service had violated his rights under Article 1 of Protocol No. 1 to the Convention.

25. The Government submitted, in substance, the same objections as they submitted in the applicant's complaint under Articles 8 and 12 of the Convention. The Court does not consider it necessary to examine those objections, as the complaint is in any event inadmissible for the following reasons.

26. The Court reiterates that Article 1 of Protocol No. 1 does not guarantee the right to acquire property. An applicant can allege a violation of Article 1

of Protocol No. 1 only in so far as the impugned decisions related to his or her "possessions" within the meaning of that provision. "Possessions" can be either "existing possessions" or claims that are sufficiently established to be regarded as "assets", in respect of which the applicant can argue that he or she had at least a "legitimate expectation" of obtaining effective enjoyment of a property right. A legitimate expectation must be based on a legal provision or a legal act, such as a judicial decision, and must be of a nature more concrete than a mere hope. No such expectation arises where there was a dispute as to the correct interpretation and application of domestic law and the applicant's submissions were ultimately rejected by the national courts (see *Kopecký v. Slovakia* [GC], no. 44912/98, §§ 35 and 52, ECHR 2004-IX, and *Béláné Nagy v. Hungary* [GC], no. 53080/13, §§ 74 and 75, 13 December 2016).

27. In the present case, the decisive element is that the applicant's claim to have the relevant period counted for pension purposes had already been determined with final effect against him by judgment no. 2708/1998 of the Supreme Administrative Court (see paragraph 7 above). That judgment conclusively held that the legislation relied on by the applicant did not provide for the recognition for salary or pension purposes of the period spent out of service.

28. In those circumstances, neither the subsequent case-law of the Supreme Administrative Court nor the decision of the Commander-in-Chief of 1 December 2006 could give rise to a proprietary interest sufficiently established in domestic law. The domestic courts later found that decision to be unlawful and incapable of overriding the final judicial determination already made in the applicant's case (see paragraphs 12 and 13 above). Accordingly, the applicant cannot claim to have had a legitimate expectation that his pension would be readjusted so as to take that period into account.

29. In view of the findings above, the Court considers that the applicant's claim was not sufficiently established so as to qualify as an "asset" within the meaning of Article 1 of Protocol No. 1. The complaint is thus incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 11 June 2026.

Olga Chernishova Deputy Registrar	Peeter Roosma President