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

THIRD SECTION

DECISION

Application no. 46065/16
Ioannis MATHIANTONIS
against Greece

The European Court of Human Rights (Third Section), sitting on 12 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. 46065/16) 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 4 August 2016 by a Greek national, Mr Ioannis Mathiantonis ("the applicant"), who was born in 1946, lives in Thessaloniki and was represented by Mr S. Konstantopoulos, a lawyer practising in Thessaloniki;

the decision to give notice of the application to the Greek Government ("the Government"), represented by their Agent, Ms N. Marioli, President of the State Legal Council, and their Agent's delegate, Ms Z. Chatzipavlou, Senior Adviser at the State Legal Council;

the Government's observations;

the decision not to admit the applicant's observations and claims for just satisfaction to the case file on the basis that they had been submitted out of time, pursuant to Rule 38 § 1 of the Rules of Court;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's allegation that he should not have been convicted of the offence of non-payment of debts owed to the State following the imposition of an administrative fine for smuggling, despite his previous criminal acquittal in respect of smuggling.

2. The applicant ran a petrol station. On 1 March 2006 the competent Customs Office imposed on him an administrative fine for fuel smuggling under the Greek Customs Code, equivalent to 2,773,817.52 euros (EUR). In parallel criminal proceedings, by a final judgment (no. 5970/2007) of the three-member Thessaloniki Criminal Court for misdemeanours, delivered on 23 March 2007, the applicant was acquitted of fuel smuggling. By judgment no. 2403/2015, delivered on 16 June 2015, the Supreme Administrative Court dismissed the applicant's appeal on points of law against the fine.

3. The applicant lodged application no. 56803/15 before the Court raising complaints under Article 4 of Protocol No. 7 to the Convention and Article 6 § 2 of the Convention concerning the fine imposed on him despite the criminal acquittal. The Court found a violation of Article 4 of Protocol No. 7 to the Convention and of Article 6 § 2 of the Convention (see *Mathiantonis v. Greece* [Committee], nos. 56795/15 and 56803/15, 10 December 2024).

4. Turning to the present case, on 22 July 2009 the competent Customs Office requested that criminal proceedings be initiated against the applicant for the offence of non-payment of debts owed to the State, which had fallen due on 12 April 2008 and 16 January 2009, in accordance with Article 23 § 1 of Law no. 2523/1997 and Article 34 of Law no. 3220/2004. By judgment no. 42313/2012 of the single-member Thessaloniki Criminal Court for misdemeanours, the applicant was found guilty. The applicant lodged an appeal which was dismissed by judgment no. 7437/2014 of the three-member Thessaloniki Criminal Court for misdemeanours, delivered on 16 September 2014. The applicant argued that he had had no criminal intent in his committing the offence. He maintained that, since he had been acquitted of fuel smuggling, he had believed that he had not been obliged to pay the debts arising from the fine imposed. The court, deciding anew, found the applicant guilty of the offence of non-payment of debts and gave him a three-year suspended prison sentence, noting also that the criminal and administrative proceedings regarding smuggling were separate (*αυτοτελείς*) of each other.

5. The applicant lodged an appeal on points of law against that judgment with the Court of Cassation, arguing that his conviction had violated his presumption of innocence, in so far as he had been convicted of the non-payment of debts arising from the smuggling fine, despite his criminal acquittal in respect of smuggling. By judgment no. 938/2016, delivered on 25 April 2016, the Court of Cassation dismissed the applicant's appeal on points of law. It noted that the applicant had not paid the debts due under a valid act; it also pointed out that the criminal and administrative sets of proceedings regarding smuggling were separate and found that the conditions for the application of the *ne bis in idem* principle in respect of those proceedings had not been fulfilled.

6. Relying on Article 4 of Protocol No. 7 to the Convention and Article 6 § 2 of the Convention, the applicant complained that his criminal conviction for the non-payment of debts had been incompatible with the *ne bis in idem*

principle and the presumption of innocence, as the fine had been imposed on him on the basis of the same facts in respect of which he had previously been acquitted of smuggling.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 4 of Protocol No. 7 to the Convention

7. The Government argued that the applicant had failed to exhaust domestic remedies, as he had not raised, even in substance, his complaint under Article 4 of Protocol No. 7 before the domestic courts. The Court does not find it necessary to address the above-mentioned objection, as the complaint is inadmissible for the following reasons.

8. The relevant principles have been summarised in *A and B v. Norway* [GC], nos. 24130/11 and 29758/11, §§ 105-34, 15 November 2016; *Sergey Zolotukhin v. Russia* [GC], no. 14939/03, §§ 78-84, ECHR 2009; *Goulandris and Vardinogianni v. Greece,* no. 1735/13, §§ 49-55, 16 June 2022; and *Kapetanios and Others v. Greece*, nos. 3453/12 and 2 others, §§ 62-63, 30 April 2015.

9. The Court reiterates that Article 4 of Protocol No. 7 should be understood as prohibiting the prosecution or trial of a second "offence" in so far as it arises from identical facts or facts which are "substantially" the same as those underlying the first offence (see *A and B v. Norway*, cited above, § 108, and *Sergey Zolotukhin*, cited above, §§ 82-84). The starting point for the determination of whether the facts in both proceedings were identical or substantially the same should be the statements of fact concerning both the offence for which the applicant has already been tried and the offence of which he or she stands accused (see *Sergey Zolotukhin*, cited above, § 83).

10. In the present case, the two sets of proceedings about which the applicant complains are the criminal proceedings for fuel smuggling and the criminal proceedings for the non-payment of debts owed to the State – that is, two distinct offences. Turning to the crucial facts of the case, the Court notes that the criminal judgment convicting the applicant of smuggling, delivered in 2007, concerned charges of fuel smuggling at his petrol station on the basis of the decision of the Customs Office of 1 March 2006 (see paragraph 2 above). The subsequent criminal judgment, delivered in 2014, concerned charges of failing to pay debts owed to the State, which had fallen due on 12 April 2008 and 16 January 2009 (see paragraphs 4-5 above). Those debts arose from the fine imposed on him by the Customs Office for fuel smuggling.

11. The Court further observes that the two sets of criminal proceedings were based on different facts, which occurred at different times and which concerned a different set of actions by the applicant (see, *mutatis mutandis, Ramda v. France*, no. 78477/11, §§ 94-95, 19 December 2017). On the one

hand, the proceedings for the smuggling offence concerned whether the applicant had complied with the relevant customs duties with regard to the management of fuel at his petrol station. On the other hand, the proceedings concerning the offence of non-payment of debts concerned the applicant's obligations towards the State to pay amounts owed to it within a specific time frame. The conviction for the offence of non-payment of debts was not related to the origin, validity, or justification of the debts in question. In other words, the criminal courts solely examined whether the accused had complied with his obligation to pay a debt owed to the State in order to determine whether the offence in question had been committed. The question whether the fine had been lawfully imposed fell under the jurisdiction of the administrative courts. Accordingly, the Court concludes that the two sets of criminal proceedings did not concern identical facts or facts which were substantially the same for the purposes of Article 4 of Protocol No. 7 to the Convention.

12. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 § 4 of the Convention.

B. Alleged violation of Article 6 § 2 of the Convention

13. The Government argued that the two offences were based on different facts and that the validity of the fine imposed by the authorities had not been examined by the criminal courts. The fine could have been annulled only by the administrative courts and, in the absence of such annulment, the applicant had been obliged to pay the fine as a debt owed to the State. If the fine had been annulled by the administrative courts, the applicant would have had the possibility of seeking the reopening of the criminal proceedings in order to have his conviction quashed.

14. The general principles on the applicability of Article 6 § 2 with regards to proceedings subsequent to a criminal acquittal have been summarised in *Nealon and Hallam v. the United Kingdom* ([GC], nos. 32483/19 and 35049/19, §§ 101-09 and 120-25, 11 June 2024, with further references).

15. The Court reiterates that whenever the question of the applicability of Article 6 § 2 arises in the context of subsequent proceedings, the applicant must demonstrate the existence of a link between the concluded criminal proceedings and the subsequent proceedings. Such a link is likely to be present, for example, where the subsequent proceedings require examination of the outcome of the prior criminal proceedings and, in particular, where they oblige the court to analyse the criminal judgment, or to engage in a review or evaluation of the evidence in the criminal file (ibid., § 122, for further examples, and see also *Allen v. the United Kingdom* [GC], no. 25424/09, § 104, ECHR 2013). The Court found that the necessary link had not been established where the outcome of the criminal proceedings had not been decisive for the subsequent proceedings and the latter had not

therefore been a direct sequel to the former (see *Gale v. the United Kingdom*, no. 25092/12, §§ 90-96, 1 July 2025; and *Ringvold v. Norway*, no. 34964/97, § 41, ECHR 2003-II).

16. In the present case, the applicant had an obligation, under domestic law, to pay the debts arising from the administrative fine imposed on him, from the time that the alleged debts had fallen due. The Court notes that, despite the applicant's acquittal in respect of smuggling, in the domestic legal order the fine had not been annulled at that time by the administrative courts and continued to apply. Should the fine be annulled, the applicant could seek the reopening of the criminal proceedings concerning his failure to pay the relevant debts. The Court does not lose sight of the fact that, for the purposes of a conviction for the offence of non-payment of debts, the origin of the debt is irrelevant, taking into account that the debts had fallen due even before the conclusion of the administrative proceedings against the imposition of the fine. The applicant's criminal acquittal in respect of smuggling was not therefore decisive or even relevant to the subsequent proceedings for non-payment of the fine (contrast *Melo Tadeu v. Portugal*, no. 27785/10, § 66, 23 October 2014).

17. Lastly, the Court notes that the present case does not concern the imposition of the administrative fine for smuggling on the applicant, despite his criminal acquittal in respect of the same offence. The subsequent proceedings do not therefore concern a situation where the same conduct was examined anew from the perspective of the administrative courts (compare and contrast, *Sismanidis and Sitaridis v. Greece*, nos. 66602/09 and 71879/12, §§ 40-58, 9 June 2016, and *Kapetanios and Others*, cited above, §§ 82-88). The subsequent proceedings concerned an altogether different conduct on behalf of the applicant and a different offence examined by the criminal courts. Accordingly, the present case differs from situations where an applicant is tried and convicted twice for the same offence and where his or her presumption of innocence is infringed because the administrative courts upheld an administrative fine for smuggling despite an earlier criminal acquittal. This was notably the subject of the Court's judgment in *Mathiantonis v. Greece* ([Committee], nos. 56795/15 and 56803/15, 10 December 2024) where it found a violation of Article 4 of Protocol No. 7 to the Convention and Article 6 § 2 of the Convention. On the contrary, in the present case, the domestic criminal courts distinguished between the criminal and administrative sets of proceedings and did not question that the applicant was rightfully acquitted of fuel smuggling. His previous criminal acquittal was irrelevant for the purposes of the proceedings for the offence of non-payment of administrative debts (see *Nealon and Hallam*, cited above, § 123).

18. It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention 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 4 June 2026.

Olga Chernishova Deputy Registrar	Peeter Roosma President