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

THIRD SECTION

DECISION

Application no. 410/16
Eva MISSIOU KARAGIANNIDOU
against Greece

The European Court of Human Rights (Third Section), sitting on 4 November 2025 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. 410/16) 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 24 December 2015 by a Greek national, Ms Eva Missiou Karagiannidou ("the applicant"), who was born in 1956, lives in Thessaloniki and was represented by Mr N. Chatzinikolaou and Mrs D. Lima, lawyers practising in Thessaloniki;

the decision to give notice of the application to the Greek Government ("the Government"), represented by their Agent, Mrs O. Patsopoulou, legal advisor at the State Legal Council;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant alleged a violation of her rights under Article 6 §§ 1, 2, and 3 (d) of the Convention. Her complaint is twofold. First, she submitted that the domestic courts had refused her request to adjourn appellate proceedings in order to secure the examination of a key defence witness, thereby depriving her of a fair trial and the opportunity to present an effective defence. Second, she complained that the reasoning adopted by the domestic courts – in particular, the Court of Cassation's observation that it had not been proved that the hospital where the applicant worked had lacked sufficient

blood supplies – had shifted the burden of proof onto the defence, thereby breaching the presumption of innocence.

2. The applicant is an obstetrician and gynaecological surgeon who worked at Katerini Hospital between 1987 and 2011.

3. On 13 August 2007 a woman in her 34th week of pregnancy was urgently admitted to Katerini Hospital with heavy vaginal bleeding, tachycardia and hypotension, which were attributed to placental abruption. The applicant, in cooperation with a colleague, performed an emergency caesarean section. Following the delivery, the patient's condition deteriorated on account of an ongoing haemorrhage.

4. The applicant submitted that, owing to the absence of an intensive care unit, a vascular surgeon and sufficient blood supplies at Katerini Hospital, she and her colleague had decided to transfer the patient to Ippokrateio Hospital in Thessaloniki, a tertiary care facility, for definitive surgical treatment in the form of a total hysterectomy. During the transfer, the patient suffered cardiac arrest and died en route. According to an autopsy report issued by the Laboratory of Forensic Medicine and Toxicology of the Aristotle University of Thessaloniki, the cause of death was uterine atony resulting in acute massive haemorrhage.

5. Criminal proceedings were brought against the applicant and her colleague on charges of manslaughter by negligence. The prosecution submitted that, rather than performing an immediate hysterectomy to treat the patient's ongoing haemorrhage, the defendants had opted to transfer her to Ippokrateio Hospital in Thessaloniki; however, the patient had died en route because of her deteriorating condition.

6. On 3 July 2013 the Katerini Three-Member Misdemeanour Court, by judgment no. 1135/2013, found both defendants guilty of manslaughter by negligence and sentenced each of them to three years' imprisonment, suspended for three years. In convicting the applicant, it found that she and her co-defendant had failed to adequately assess and respond to the patient's haemodynamic condition, which had been worsening on account of uterine atony. Despite signs of haemorrhagic shock, they had failed to perform a hysterectomy – which had been medically necessary – and had instead opted to transfer the patient to another hospital; however, she had died during transit. During the first-instance proceedings, the director of the haematology department of Katerini Hospital testified as a witness. He stated that he had been on leave at the time of the incident and was therefore not in a position to confirm the actual availability of blood supplies on the relevant day. He provided general information about the hospital's operational limitations, noting that the blood bank operated with limited reserves, that there was no intensive care unit, and that obtaining additional blood supplies from other hospitals required coordination and could involve delays. On 3 July 2013 the applicant and her co-defendant lodged an appeal.

7. On 12 December 2014 the Thessaloniki Three-Member Misdemeanour Court of Appeal dismissed the appeal lodged by the applicant on the merits by judgment no. 3429/2014 (which became final on 22 April 2015).

8. During the appellate proceedings, the applicant argued that Katerini Hospital had lacked sufficient blood supplies to support the procedure in question and that this had influenced her clinical judgment. She accordingly made two requests for an adjournment in order to summon the director of the haematology department and to obtain documentation from the hospital's blood bank, submitting that that evidence was essential to her defence.

9. The appellate court rejected the first request, stating that it could determine the case on the basis of the evidence already before it, including existing witness testimony, documentary material and the defendants' statements. It also noted that the proposed witness had testified at first instance and had been on leave at the time of the events, limiting the relevance of further examination. When the applicant renewed her request later in the proceedings, the court again rejected it, citing the impending expiry of the statutory limitation period.

10. On 11 May 2015 the applicant lodged an appeal on points of law (*αίτηση αναιρέσεως*) with the Court of Cassation, arguing, *inter alia*, that the appellate court had failed to provide adequate reasons for rejecting her request to adjourn the proceedings in order to examine the director of the haematology department and to obtain documentation concerning the hospital's blood bank. By judgment no. 782/2015 of 22 July 2015, the Court of Cassation dismissed the appeal, finding that the appellate court had acted within its discretion and had duly considered the request, without exceeding its margin of appreciation in concluding that the available evidence was sufficient to determine the case. In its reasoning, the Court of Cassation observed, *inter alia*, that it had not been established that the hospital had lacked an adequate supply of blood supplies.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 6 §§ 1 and 3 (d) of the Convention

11. The Government submitted that the application should be declared inadmissible as manifestly ill-founded, arguing that the domestic courts had acted within their discretion and provided adequate reasons for refusing the defence's request.

12. The general principles under Article 6 §§ 1 and 3 (d) of the Convention concerning the refusal to examine defence witnesses have been clarified in *Murtazaliyeva v. Russia* ([GC], no. 36658/05, §§ 139-68, 18 December 2018). The Court held that, in such cases, the assessment must address three questions: (i) whether the request to examine the witness was sufficiently reasoned and relevant to the subject matter of the accusation;

(ii) whether the domestic courts assessed the relevance of the testimony and provided adequate reasons for refusing the request; and (iii) whether the refusal undermined the overall fairness of the proceedings.

13. In the present case, the applicant requested on two occasions during the appellate proceedings the re-examination of the director of the haematology department. She argued that the availability of blood supplies was a critical factor in assessing whether a hysterectomy could feasibly have been performed at Katerini Hospital and maintained that her decision to transfer the patient had been necessitated by the hospital's operational limitations (see paragraph 8 above).

14. The appellate court rejected the request on both occasions. Initially, it considered that the case could be decided on the basis of the evidence already available, including witness testimony, documentary material and the defendants' statements. It also noted that the proposed witness had already testified at first instance and had been on leave at the time of the incident. When the applicant renewed her request later in the proceedings, the court dismissed it again, referring to the sufficiency of the existing evidence and adding that the impending expiry of the statutory limitation period weighed against an adjournment (see paragraph 9 above).

15. Applying the three-pronged test established in *Murtazaliyeva* (cited above), the Court considers that the refusal to re-examine the director of the haematology department at the appellate stage did not undermine the overall fairness of the proceedings. First, the applicant's request was not sufficiently relevant to the subject matter of the accusation. While the courts mentioned the availability of blood supplies when outlining the factual background to the case, it was not central to their reasoning. The decisive issue was the applicant's failure to adequately assess and manage the patient's haemodynamic deterioration following the caesarean section, not the availability of blood products. Second, the refusal to re-examine the witness was based on valid grounds. The director of the haematology department had already testified at first instance and had stated that he had been on leave at the time of the incident and therefore had no direct knowledge of the blood bank's reserves on the relevant day. His testimony had been limited to general observations about the operational capacity of the hospital. The appellate court reasonably found that further examination would not add probative value. Notably, the applicant did not question the witness at first instance about the alleged unavailability of blood, nor did she submit any contemporaneous request to the hospital's blood bank or produce documentation to support her allegation in that regard. Third, adequate procedural safeguards were in place. The applicant was represented by counsel throughout the proceedings and had the opportunity to challenge the prosecution's case, present evidence, request the admission of witnesses, and advance her defence. The courts considered her arguments and provided reasoned decisions at each level of jurisdiction. In the light of those

considerations, the Court concludes that the refusal to adjourn the proceedings in order to re-examine the witness did not impair the fairness of the proceedings within the meaning of Article 6 § 1 of the Convention.

16. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

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

17. The applicant also complained under Article 6 § 2 of the Convention that the reasoning of the domestic courts had reversed the burden of proof, thereby breaching the presumption of innocence. She referred to the judgment of the Court of Cassation, which had stated, *inter alia*, that it had not been proved that the hospital had lacked sufficient blood supplies.

18. The Court reiterates that Article 6 § 2 prohibits any premature expression by the trial court that a person is guilty before such guilt has been proved according to law. A violation may arise where the reasoning of a judgment suggests that the burden of proof was improperly shifted from the prosecution to the defence (see *Telfner v. Austria*, no. 33501/96, §§ 15-20, 20 March 2001).

19. In the present case, the Court observes that the applicant's conviction was not based on her failure to demonstrate the unavailability of blood supplies, but rather on her and her co-defendant's failure to identify and respond appropriately to the patient's haemodynamic deterioration following the delivery of her child. The appellate court focused its reasoning on the clinical assessment and decision-making in the context of a medical emergency, ultimately finding that the decision to transfer the patient – rather than to perform a hysterectomy – constituted a negligent omission that had contributed to the patient's death. In that context, the Court of Cassation's reference to the absence of proof regarding the hospital's blood reserves appears to have been made in response to the applicant's own line of defence, namely that the transfer had been necessitated by a lack of resources. It was not presented as a decisive or independent ground for her conviction, but rather as part of the broader assessment of the factual and medical circumstances of the case.

20. In those circumstances, the Court finds no indication that the applicant was treated in a manner contrary to the presumption of innocence.

21. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 27 November 2025.

Olga Chernishova Deputy Registrar	Peeter Roosma President