



## Failure to complete proceedings within a reasonable time and lack of a remedy in that regard

In today's Chamber judgment<sup>1</sup> in the case of [Tziovanis and Others v. Greece](#) (application no. 27462/09) the European Court of Human Rights held, unanimously, that there had been:

**no violation of Article 6 § 1 (right of access to a court) of the European Convention on Human Rights,**

**a violation of Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention, and**

**a violation of Article 13 (right to an effective remedy).**

The case concerned the alleged violation of the applicants' right of access to a court and of their right to have their case heard "within a reasonable time".

The Court observed that nowhere in their grounds of appeal or their additional pleadings had the applicants relied explicitly on Article 260 of the Civil Code, according to which the limitation period stopped running when the debtor acknowledged the creditor's claims. It therefore saw no evidence of arbitrariness in the reasons given by the Court of Cassation for dismissing the applicants' appeal as being "vague". Nevertheless, the Court noted that the length of the proceedings in question had exceeded a "reasonable time" and that the remedy identified by the Government had not been capable of affording adequate protection against their excessive length.

### Principal facts

The applicants are Dimitrios Tziovanis, Nikolaos Tziovanis and Zoï Tziovani-Gagopoulou, Greek nationals living in Serres and Athens, and a limited-liability company, Athlitiko Kentro ("sports centre"), which has its registered office in Athens.

On 7 May 2001 the applicant company and the father of some of the applicants, who later died, brought an action in the District Court seeking damages from the Church of Greece and from a construction company and its representative, in connection with the renting of a sports centre owned by the Church and managed by the construction company. In a judgment of 12 July 2004 the court dismissed the action as being vague in so far as it was based on unjust enrichment. It dismissed as unfounded the part of the action relating to damages. The District Court allowed the defendants' objection that this part of the action was time-barred. It rejected as vague and unproven the applicants' objection in reply to the effect that the running of the limitation period had been interrupted because the defendants had acknowledged the applicants' claims.

On 18 January 2005 the applicant company and the other three applicants appealed. In July 2006 and February 2007 the Court of Appeal overturned the judgment but also declared the applicants' action inadmissible on the grounds that their claims were time-barred. It held that the applicants' arguments regarding the interruption of the limitation period were inadmissible as they had not been raised at first instance. Lastly, the Court of Appeal stressed that the objection in reply regarding

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

the interruption of the limitation period was not in accordance with the law since the steps taken in relation to the defendants had not been apt to stop the running of that period.

The applicants lodged an appeal on points of law with the Court of Cassation, which dismissed their claims.

## Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right of access to a court and right to a fair hearing within a reasonable time), the applicants complained that the Court of Cassation's finding of inadmissibility regarding their second ground of appeal – the objection in reply concerning the interruption of the limitation period – had breached their right of access to a court. They also complained of a failure to comply with the reasonable-time requirement in the proceedings they had brought in the civil courts. Relying on Article 13 (right to an effective remedy), taken together with Article 6 § 1, they alleged that they had not had an effective remedy by which to complain about the length of the proceedings and about the violation of their right of access to a court.

The application was lodged with the European Court of Human Rights on 30 April 2009.

Judgment was given by a Chamber of seven judges, composed as follows:

Ledi **Bianku** (Albania), *President*,  
Kristina **Pardalos** (San Marino),  
Linos-Alexandre **Sicilianos** (Greece),  
Robert **Spano** (Iceland),  
Armen **Harutyunyan** (Armenia),  
Pauliine **Koskelo** (Finland),  
Tim **Eicke** (the United Kingdom),

and also Abel **Campos**, *Section Registrar*.

## Decision of the Court

### [Article 6 § 1 \(right of access to a court\)](#)

The Court observed that the applicants had submitted a second ground of appeal to the Court of Cassation which had been rejected as being vague. In it they had maintained that the Court of Appeal had erred in declaring inadmissible their argument that the running of the limitation period had been interrupted because the defendants had acknowledged the applicants' claims. According to the Court of Cassation, there was no evidence that the applicants had raised this argument either at the Court of Appeal hearing or in their additional pleadings.

The Court noted that nowhere in their grounds of appeal or their additional pleadings had the applicants relied explicitly on Article 260 of the Civil Code, according to which the limitation period stopped running when the debtor acknowledged the creditor's claims. In their additional pleadings on appeal the applicants had noted that their claim had been subject to a 20-year limitation period and that the defendants and the Church of Greece had acknowledged that claim and stated their willingness to reimburse the applicants; however, the applicants stated that they had not accepted the derisory sums offered.

The Court observed, firstly, that in dismissing the applicants' appeal on points of law the Court of Cassation had stressed that, for a ground of appeal to be sufficiently precise, it had to be clear that the argument on which it was based had been submitted to the court below during the hearing leading to the decision that was being challenged. That had not been the situation in the present case. Secondly, the Court considered that in their additional pleadings before the Court of Appeal

the applicants had relied on the decisive argument as a subsidiary aspect, without referring to the relevant provision, namely Article 260 of the Civil Code, and without substantiating their argument sufficiently in factual or legal terms. The Court therefore saw no indication of arbitrariness in the reasons given by the Court of Cassation for dismissing the applicants' appeal. The Court considered that in rejecting the second ground of appeal as vague the Court of Cassation had not breached the applicants' right of access to a court as guaranteed by Article 6 § 1 of the Convention.

#### Article 6 § 1 (right to a fair hearing within a reasonable time)

The Court noted that the proceedings in the first-instance court had lasted for approximately three years and two months, and the proceedings in the Court of Appeal for two years and 14 days, including over six months for the correction of certain substantive errors. It therefore held that the length of the proceedings in question had exceeded a "reasonable time" and that there had been a violation of Article 6 § 1 of the Convention in that regard.

#### Article 13 (right to an effective remedy) read together with Article 6 § 1

The Government argued that the applicants had had available to them an effective remedy by which to complain of the length of the proceedings, in the form of Article 226 § 5 of the Code of Civil Procedure. Under that provision it had been open to them to request the Court of Appeal and the Court of Cassation to examine their case as a matter of priority.

The Court observed that this was not a compensatory remedy in respect of proceedings exceeding a reasonable time. The provision in question did not afford a specific remedy which expressly allowed proceedings to be speeded up in order to ensure that their length did not become incompatible with the Convention. The only obligation on the courts was to give reasons for their decision, whether or not it was in the claimant's favour.

The Court therefore concluded that the remedy identified by the Government had not been capable of affording adequate protection against the excessive length of the proceedings in question. Accordingly, there had been a violation of Article 13 of the Convention.

#### Article 41 (just satisfaction)

The Court held that Greece was to pay the applicant 2,000 euros (EUR) in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses.

*The judgment is available only in French.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.