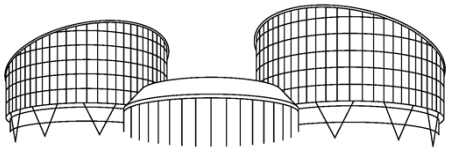

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF THEODOROS VAVOULAS & SIA OE v. GREECE

(Application no. 27916/19)

JUDGMENT

STRASBOURG

8 July 2025

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

In the case of Theodoros Vavoulas & Sia OE v. Greece,

The European Court of Human Rights (Third Section), sitting 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. 27916/19) 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 16 May 2019 by a company registered under Greek law, Theodoros Vavoulas & Sia OE ("the applicant company"), which was established in 1980, is based in Athens and is represented by Mr I. Mytaloulis, a lawyer practising in Athens;

the decision to give notice of the complaint concerning Article 6 § 1 of the Convention to the Greek Government ("the Government"), represented by their Agent, Ms N. Marioli, President at the State Legal Council, and their Agent's delegates, Mr K. Georgiadis and Ms S. Trekli, Legal Counsellor and Senior Advisor at the State Legal Council respectively, and to declare the remainder of the application inadmissible;

the fact that the Government did not object to the examination of the application by a Committee;

the parties' observations;

Having deliberated in private on 17 June 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the rejection as inadmissible of the applicant company's application for annulment of an administrative decision, because of late completion of the court fees due, following the referral of the case from the Administrative Court of Appeal to the Supreme Administrative Court.

2. In 1999 the applicant company received a grant in the context of a state-subsidised business investment. In 2005, following a tax inspection, the Minister for Development issued a decision ordering the revocation of the grant. Following a successful application for annulment, the case was referred to the administration for fresh examination and the Deputy Minister for Development issued a new decision ordering the partial revocation of the grant at issue for the amount of 145,753.87 euros (EUR) plus interest.

3. In May 2012 the applicant company contested the above decision lodging an appeal (*προσφυγή*) before the Athens Administrative Court of Appeal. When lodging its appeal, the applicant company paid the court fees (*παράβολο)* required for lodging an appeal (EUR 100).

4. By decision no. 1977/2013 rendered on 14 May 2013, the Athens Administrative Court of Appeal ruled that, following a recent change in legislation, the appeal should have been lodged as an application for annulment with the Supreme Administrative Court, and referred the case to the latter.

5. The above decision was served to the applicant company on 17 July 2013.

6. On 15 November 2013 the applicant company paid EUR 50 in order to complete the court fee required for lodging an application for annulment (EUR 150).

7. On 28 November 2013 the applicant company was served the notice of the scheduled hearing of the case (*κλήση προσδιορισμού δικασίμου*).

8. After a hearing took place in September 2014, the Supreme Administrative Court rendered decision no. 3574/2015 on 6 October 2015, by which it noted that the applicant company had completed the court fees due on 15 November 2013 while, according to that court's case-law, it should have done so at the latest by 1 September 2013, meaning 30 days after the case file was received by the court's registry on 1 August 2013. In view of this finding, it was decided that the case be adjourned so that the Rapporteur and the parties be heard on the issue of the late completion of the court fee.

9. Following a new hearing in December 2015, the Supreme Administrative Court on 5 February 2019 issued decision no. 250/2019, by which it rejected as inadmissible the application for annulment on grounds of late completion of the court fee.

RELEVANT DOMESTIC LAW AND PRACTICE

I. PRESIDENTIAL DECREE NO. 18/1989

10. The relevant Articles of Presidential Decree No. 18/1989, as it stood at the time, read as follows:

Article 35
Expenses and fees of the trial

"...

3. The court fees due for the registration of the case, for its minutes and for the judgment shall be paid at the same time as the filing of the introductory remedy *(εισαγωγικού δικογράφου της δίκης)*. If the introductory remedy is lodged before a public authority, the court fees shall be deposited or sent to the Court by postal order no later than one month after the remedy lodged is received by the Court.

4. If the above provided fees are not paid in advance or sent, in accordance with the previous paragraph's provisions, the remedy shall be introduced for examination by an act of the President, in which special mention shall be made to the above omission, without any notification of the parties. The remedy shall be subsequently rejected as inadmissible by a summary decision . In this case, the fees shall be collected on the

basis of the above decision, in accordance with the provisions on the collection of public revenues."

Article 36
Court Fees

"1. A remedy lodged with the Supreme Administrative Court shall be rejected as inadmissible if no court fee is paid within one month after the filing of the introductory remedy. The court fee due, in case of an application for annulment (...) amounts to 150 euros.

....

3. The provisions of paragraphs 3 and 4 of the previous Article shall apply *mutatis mutandis* to the court fees.

..."

II. RELEVANT CASE-LAW OF THE SUPREME ADMINISTRATIVE COURT

11. The Supreme Administrative Court's decision no. 3574/2015 rendered on 6 October 2015 in the applicant company's case reiterated its established case-law on the issue in question as follows:

"...

In the event of referral to the Supreme Administrative Court of a legal remedy lodged with another administrative court for reasons of jurisdiction, the one-month time-limit provided by Article 36 paragraphs 1 and 3 of Presidential decree no. 18/1989 starts to run from the notification of the referral decision to the applicant or his lawyer, unless the case file physically reaches the court at a later stage of the said notification. In that event, the above time-limit starts to run from the date on which the case file was received by the court. In case it cannot transpire from the file if or when the referral decision was notified to the applicant, or when the notification made was not lawful, the one-month time limit starts to run from the date of the notification of the case's hearing date and Judge-Rapporteur to the applicant party. If, in either of the above cases, the said one-month time-limit elapses and no action has been taken pertaining to the completion of the court fee due, the legal remedy is rejected as inadmissible (Supreme Administrative Courts decisions nos. 263/2009, 4386/2005, 3913/2004, 1357/2002, 3035/1996, 3134/95, 1977/1994 etc.).

..."

12. The Supreme Administrative Court's decision no. 777/2013, taken in Plenary formation, reads as follows:

"...

The above decision of the Athens Administrative Court of Appeal referring the case to the Supreme Administrative Court was served to the applicant's lawyer on 19 June 2008, while the case file was received from the Supreme Administrative Court on 29 December 2008. A notice of the scheduled hearing of the case was served to the applicant on 15 April 2010, while, by a document of the Head of the Supreme Administrative Court's Office for Lodging Legal Actions dated 29 December 2008, the

applicant was requested, *inter alia*, to complete the court fee due, which amounted to EUR 10,5. ...''.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

13. The applicant company complains that it was deprived of its right of access to a court in violation of Article 6 § 1 of the Convention due to the formalistic rejection as inadmissible of its application for annulment on account of late payment of the court fee due.

14. The Court notes the applicant company's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

15. The general principles concerning the right of access to a court with relation to the observance of procedural rules laid down in domestic law have been summarised, *inter alia*, in *Miragall Escolano and Others v. Spain* (nos. 38366/97 and 9 others, §§ 33-38, 25 January 2000) and *Zubac v. Croatia* [GC] (no. 40160/12, §§ 76-99, 5 April 2018).

16. As a starting point, the Court examines whether the procedural rules to be complied with could be regarded as "foreseeable" from the point of view of the litigant. The foreseeability criterion will normally be satisfied when there is a coherent domestic judicial practice and a consistent application of that practice from the side of the domestic courts (*Zubac*, cited above, §§ 8788).

17. The Court notes that the rejection as inadmissible of the applicant company's application for annulment was based on a case-law rule based on well-established case-law of the Supreme Administrative Court, consisting in the combined interpretation of Articles 35 and 36 of Presidential Decree 18/1989. According to this rule, the one-month time-limit for the completion of the court fee due could start to run from three alternative starting points: (a) from the notification to the applicant of the referral decision; (b) from the moment the physical file had reached the Supreme Administrative Court, if the latter occurred after the notification of the referral decision; or (c) from the notification to the applicant of the date of the hearing before the Supreme Administrative Court, if it could not transpire from the case file when the physical file reached the Supreme Administrative Court or if it could not be ascertained whether the notification to the applicant of the referral decision had been lawful (see paragraph 11 above).

18. In the present case, the Supreme Administrative Court found that the time-limit in question started to run when the physical file had reached the court's registry (1 August 2013), as that had taken place after the referral decision had been served on the applicant (17 July 2013).

19. In this regard, the Court notes that neither from the Government's observations nor from any other material brought to its attention, it transpires that there is a statutory procedure ensuring the notification of the applicant about the receipt of the physical file by the Supreme Administrative Court.

20. The applicant company was formally informed that the physical file had reached the Supreme Administrative Court when the notice of the scheduled hearing was served to it on 28 November 2013, therefore after the time-limit had already expired on 1 September 2013, and after the applicant company had, on its own initiative, completed the court fee due on 15 November 2013. Before that, the dispatch and the receipt of the physical file by the Supreme Administrative Court seem to have been subject of an exclusively internal procedure.

21. In the Court's view, this amounted to having made the expiry of the relevant deadline dependent on a factor entirely outside the applicant company's knowledge and control. In the absence of any information as regards the time of receipt of the physical file by the Supreme Administrative Court, it was practically impossible for the applicant company to calculate the one-month time-limit to be complied with for the timely completion of the court fee due.

22. Further, the Court takes note of the Government's argument that, in so far as the referral decision was at any case served on the applicant company at an earlier stage, it would be for it to show diligence, possibly contacting the court's registry and requesting information on when the case file was to be received. However, in the relevant decisions of the Supreme Administrative Court invoked by the Government, including a decision of its Plenary formation (see paragraph 12 above), the notification of the litigants about their obligation to complete the court fees had taken place when the case file had been received by the Supreme Administrative Court. Such notification did not take place in the present case. In view of the above, the Court finds that the applicant company could have legitimately expected to receive a notification in order to proceed with the completion at issue. Therefore, the applicant company cannot be said to have acted negligently on account of not having contacted the court's registry on its own initiative.

23. Therefore, the Court finds that an obligation was imposed on the applicant company with which it could not practically comply. Considering that the belated completion of the relevant court fee (EUR 50) by the applicant company had a particularly severe consequence, that is the rejection of the whole application as inadmissible, the Court considers that the impugned measure was disproportionate to the objective of guaranteeing legal certainty and the good administration of justice (see *Zubac*, cited above, § 87, with further references; *Ivanova and Ivashova v. Russia*, nos. 797/14 and 67755/14, § 57, 26 January 2017; and *Georgiy Nikolayevich Mikhaylov v. Russia*, no. 4543/04, §§ 55-58, 1 April 2010).

24. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The applicant company claimed in respect of pecuniary damage 719,110.03 euros (EUR) corresponding to the amount of the subsidy revoked (EUR 145,753.87) with the legal interest for late payment from 17 September 1999 until the submission of its observations. It further claimed EUR 719,110.03 in respect of non-pecuniary damage.

26. The Government contested these claims. As regards the amount claimed in respect of pecuniary damage, they argued that the applicant company had not paid the amounts corresponding to the amount revoked and that, in any case, the claims made lack causal link with the violation complained of. As regards the amount claimed in respect of non-pecuniary damage, the Government considered it to be excessive and unjustified. In their view, the finding of a violation would constitute sufficient just satisfaction.

27. As regards the pecuniary damage claimed, the Court does not discern any causal link between the violation found and the pecuniary damage alleged as it cannot be in a position to speculate as to what the outcome of the proceedings would have been if the violation of Article 6 § 1 of the Convention had not occurred (see, for instance, *Mitrov v. the former Yugoslav Republic of Macedonia*, no. 45959/09, § 62, 2 June 2016).

28. It considers it reasonable to award the applicant company EUR 6,000 in respect of non-pecuniary damage plus any tax that may be chargeable.

29. No claim in respect of costs and expenses was made and, therefore, the Court makes no award in this regard.

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*
   (a) that the respondent State is to pay the applicant company, within three months, EUR 6,000 (six thousand euros) plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant company's claim for just satisfaction.

Done in English, and notified in writing on 8 July 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Peeter Roosma President