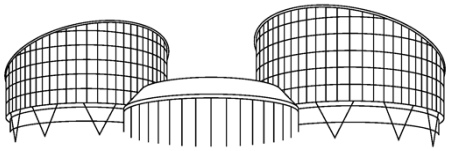

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF DIMITRAS v. GREECE

(Application no. 11946/11)

JUDGMENT

STRASBOURG

19 April 2018

FINAL

19/07/2018

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Dimitras v. Greece,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Kristina Pardalos, *President,*
Linos-Alexandre Sicilianos,
Aleš Pejchal,
Krzysztof Wojtyczek,
Armen Harutyunyan,
Tim Eicke,
Jovan Ilievski, *judges,*

and Abel Campos, *Section Registrar,*

Having deliberated in private on 27 March 2018,

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

PROCEDURE

1. The case originated in an application (no. 11946/11) 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") by a Greek national, Mr Panayotis Dimitras ("the applicant"), on 8 February 2011.

2. The applicant was represented by Greek Helsinki Monitor, a non-governmental organisation based in Glyka Nera, Athens. The Greek Government ("the Government") were represented by their Agent's delegate, Ms A. Magrippi, legal representative A at the State Legal Council.

3. The applicant complained under Article 6 that his right of access to a court and his right to have his case heard within a reasonable time had been violated. He also complained that he had not had at his disposal an effective remedy for his complaint concerning the reasonable-time requirement.

4. On 5 July 2016 the above-mentioned complaints were communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1953 and lives in Glyka Nera. He is the executive director of the non-governmental organisation "Greek Helsinki Monitor".

6. On 26 January 2007, 11 February 2007 and 7 March 2007, Greek Helsinki Monitor published on its website some press releases, in which, *inter alia*, it welcomed the concluding observations of the UN Committee on the Elimination of Discrimination Against Women (CEDAW) for Greece and criticised the domestic authorities' responses to them.

7. On 4 March 2007, E.T., in her capacity as General Secretary for Gender Equality of the Ministry of Interior, Public Administration and Decentralisation, gave an interview which was published in a magazine included with a Sunday newspaper. In that interview the following statement was put to her:

> "Greek Helsinki Monitor accuses you of withholding information and lying before the UN about the position of Roma women, minority women, and whether polygamy is practiced in Greece."

E.T. gave the following answer:

> "What they claim is extremely unfair. They lay the country open to criticism (*εκθέτουν τη χώρα*) – because what they claim is false. No other NGO shares the Monitor's position. We, in our report, may not have fully documented everything, but no one can claim that Greece is an entirely patriarchic country and that nothing has been done all these years."

8. On 1 April 2007 the same newspaper published a reply sent by the applicant, as executive director of Greek Helsinki Monitor, to E.T.'s comments, in which he asked E.T. to document her statements. On 1 June 2007 the applicant lodged a criminal complaint with the public prosecutor at the Athens First-Instance Court. He submitted that E.T. in the above-mentioned interview had made false statements about Greek Helsinki Monitor which amounted to slander committed through the press. The applicant expressed his wish to join the proceedings as civil party, initially for the amount of 100,000 euros (EUR), which he later reduced to EUR 44.

9. Following an urgent preliminary inquiry, to which E.T. was requested to provide a statement as a suspect in the case, on 10 January 2008 the public prosecutor at the Athens Court of First Instance dismissed the applicant's criminal complaint and filed (*αρχειοθέτησε*) it away, in accordance with Article 47 of the Code of Criminal Procedure. In particular, the prosecutor considered that the above-mentioned statements made within the context of the interview, did not constitute facts but value judgments and in any event, they did not overcome the necessary threshold of similar exchanges between various bodies. The prosecutor also added that Greek Helsinki Monitor had used the same expression, that is to say it had described statements included in reports prepared by the Greek Government as "false", in various press releases, in a much more heated tone.

10. On 6 February 2008, following an appeal by the applicant against the order by which his criminal complaint was filed away, the public prosecutor at the Athens Court of Appeal ordered E.T.'s criminal prosecution for slander made through the press, considering that the above-mentioned

statements were susceptible of harming the applicant's honour and reputation, not only individually, but also as representative of Greek Helsinki Monitor.

11. On the basis of the above, E.T. was indicted and 25 June 2008 was set as the hearing date before the three-member Athens Magistrates' Court. On 26 May 2008 E.T. appealed against her indictment. On 17 June 2008 her appeal was dismissed by the Athens Council of Magistrate Judges.

12. The new hearing date before the three-member Athens Magistrates' Court was set for 18 September 2008. On that date, at the beginning of the hearing of the case, E.T. raised for the first time an objection concerning lack of competence of the trial court, arguing that her status as a lawyer meant she could not have her case heard by a three-member magistrates' court. By judgment no. 53833/08 published on the same date, the said court declared itself not to have competence and referred the case to the three-member Athens Court of Appeal for misdemeanours (hereafter the "Court of Appeal"). On 28 November 2008 the operative part of the judgment was corrected and on 6 April 2009, the case file was transmitted to the prosecution service at the Athens Court of Appeal, marked as extremely urgent.

13. The new hearing date was set for 13 May 2009. On that date, the applicant's lawyer sent a letter to the court, requesting that the hearing be postponed as he could not attend it owing to other professional obligations. Additionally, K.D., a journalist who had interviewed E.T., had not been present and the applicant submitted that he considered her testimony essential. As a result, the Court of Appeal by its judgment no. 4044/09 postponed the hearing until 5 October 2009, citing a material witness's absence as the reason. On 5 October 2009 the case was not heard because the courts had not been sitting owing to the parliamentary elections that had taken place the previous day.

14. The case was again set for hearing on 17 February 2010. On that date, E.T.'s lawyer submitted certificate no. 2063/2010 of the Greek Parliament, according to which E.T. had been elected as a deputy in the parliamentary elections of 4 October 2009. On that basis, he applied to the court to have the proceedings suspended in accordance with Article 62 of the Constitution in order for Parliament to give permission. The applicant objected to the suspension and filed written submissions in which he argued, *inter alia*, that it was not necessary for Parliament to grant leave for the criminal proceedings against E.T. as the acts for which she was accused had not taken place in the course of her parliamentary activities. He cited in that connection the Court's cases *Tsalkitzis v. Greece* (no. 11801/04, 16 November 2006) and *Syngelidis v. Greece* (no. 24895/07, 11 February 2010). He further stressed that the impugned acts would become time-barred on 4 September 2010 and requested that the court proceed with examination on the merits of the case.

15. The Court of Appeal, after having held deliberations in camera, published judgment no. 1656/2010 by which it suspended the criminal proceedings against E.T. until the Greek Parliament had granted leave and, if such leave were not granted or if no action were taken in the three-month period from the submission of the prosecutor's request to the Greek Parliament, until her status as a parliamentarian ended. In respect of Article 62 of the Constitution and the applicant's objection, the domestic court held the following:

> "... In addition, since Parliament has not granted leave, the prosecution is declared inadmissible if it concerns an offence committed when the defendant was a member of parliament. If, however, criminal proceedings were initiated prior to that, when the defendant was not a member of parliament, then they are suspended until the said leave is granted or until the defendant's status as a parliamentarian ends ... It should be noted that in the present case no matter arises concerning the interpretation of Articles 61, 62 and 20 § 1 of the Constitution ... and of Article 6 § 1 of the Convention, so as for the court to rule that Parliament's leave is not required to conduct this trial because the above-mentioned act did not take place, according to the civil claimant's allegations, in the context of her parliamentary duties. That is because the prosecutable offence (slander for an interview that the defendant gave to a newspaper in her capacity as General Secretary for Gender Equality of the Ministry of Interior, Public Administration and Decentralisation) clearly does not concern a private dispute; it should be examined if it relates and is linked to the political activity of the defendant-deputy and in general to the exercise of her parliamentary duties. However, examination of this matter and, eventually, any conclusion thereof can only be carried out by the competent authority, the Greek Parliament ..."

16. The decision was published on the date of the hearing, that is to say 17 February 2010, and was finalised (i.e. entered in a special book at the registry of the criminal court) on 10 August 2010. On 13 August 2010 the applicant lodged an application with the public prosecutor of the Court of Cassation requesting an examination of points of law of the said judgment. His request was rejected on the grounds that the Court of Appeal had rightly suspended the proceedings so that Parliament could grant leave, in accordance with Article 62 of the Constitution. On 19 August 2010 the case file was transferred to the public prosecutor of the Court of Cassation, who the next day sent it to the Minister of Justice. On 23 August 2010 the Minister of Justice transferred the case file to the Greek Parliament.

17. On 24 October 2010 the Special Permanent Committee of Parliamentary Ethics of the Greek Parliament, having taken a deposition from E.T., ruled unanimously that the requirements of Article 83 § 3 had been met and thus E.T.'s immunity should not be lifted. On 12 January 2011 the Plenary of the Greek Parliament dismissed the request for leave to continue the criminal proceedings. On 1 March 2011 the public prosecutor at the Court of Cassation notified the public prosecutor at the Court of Appeal of the outcome of Parliament's vote on granting leave.

18. On 16 July 2012 the head of the General Directorate of Human Resources of the Greek Parliament notified the Ministry of Justice that E.T.

had ceased to be member of parliament since 11 April 2012. On 26 October 2012 the Court of Appeal published judgment no. 8658/2012 in which it considered that the offence of which E.T. was accused had become time-barred as more than forty-two months had passed since its alleged commission. It consequently ended the criminal prosecution. The judgment was finalised on 21 March 2013.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Greek Constitution

19. The relevant Articles of the Constitution read as follows:

Article 53

"1. Deputies are elected for four consecutive years starting on the day of the general election ..."

Article 61

"1. Under no circumstances may a deputy be prosecuted or be examined on the basis of an opinion expressed or a vote taken in the exercise of her or his parliamentary functions. ...

2. A member may be prosecuted only for slander, according to the law, after Parliament has granted leave ..."

Article 62

"1. A deputy cannot be prosecuted, arrested, detained or restrained in any other way during a parliamentary session without the permission of Parliament ..."

B. Parliamentary Regulations

20. The relevant Article of the Parliamentary Regulations reads as follows:

Article 83

"1. Requests made by the public prosecutor's service for granting leave to initiate criminal prosecution against a deputy, in accordance with Articles 61 § 2 and 62 § 1 of the Constitution, are submitted to Parliament by the Minister of Justice, after having been examined by the prosecutor at the Court of Cassation, and are recorded in a special register according to their order of introduction.

2. Following the submission of the above-mentioned requests, the President of Parliament refers them to the Parliamentary Ethics Committee in accordance with Article 43A § 1 (g).

3. The Committee, after hearing the member in question, if the latter wishes, ... shall examine on the basis of the attachments to the application, whether the act for which lifting of immunity is requested is related to the political activities of the deputy, if

there are political motives behind the criminal prosecution or if its purpose is to undermine the authority of Parliament or that of the deputy or to substantially interfere with the exercise of the deputy's duties or to influence the functioning of Parliament or the parliamentary group of which the deputy is a member ..."

C. Law no. 1092/1938

21. The relevant Articles of Law no. 1092/1938 concerning slander committed through press read as follows:

Article 3

"1. The abuse of freedom of the press with a view to committing a felony or a misdemeanour shall be considered an aggravating circumstance. In these cases, where the law provides disjunctively for a sentence of deprivation of liberty or a fine, an offence that has been committed through the press shall be punished with both sentences."

Article 48 (47)

"Offences committed through the press shall be time-barred eighteen months after they were committed. This deadline shall be suspended for as long as, in accordance with a legal provision, criminal prosecution cannot be initiated or continue for the duration of the main proceedings until the sentencing judgment becomes irrevocable. In any event, the period of suspension cannot be more than two years."

D. Criminal Code

22. The relevant Articles of the Criminal Code read as follows:

Article 362
Defamation

"Anyone who by any means disseminates information to a third party concerning another which may harm the latter's honour or reputation shall be punished by up to two years' imprisonment or a pecuniary penalty. The pecuniary penalty may be imposed in addition to imprisonment."

Article 363
Slander

"1. If, in a case under Article 362, the information is false and the offender was aware of its falsity, he or she shall be punished by at least three months' imprisonment, and, in addition, a pecuniary penalty may be imposed and deprivation of civil rights under Article 63 may be ordered."

E. Code of Criminal procedure

23. The relevant Article of the Code of Criminal Procedure reads as follows:

Article 47
Rejection of the criminal complaint

"1. The public prosecutor shall examine the criminal complaint and if he or she considers that it has no legal basis, or that it is not subject to judicial assessment, or that it is unfounded on its merits, he or she shall reject it by means of a duly reasoned order which shall be served on the complainant.

2. If a preliminary investigation or preliminary measures in accordance with Article 243 § 2 or a sworn administrative investigation was conducted and the public prosecutor considers that there is not sufficient evidence to initiate criminal proceedings, she or he shall act as described in the preceding paragraph.

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION ON ACCOUNT OF ACCESS TO A COURT

24. The applicant complained that the Greek parliament's refusal to waive E.T.'s parliamentary immunity and the allegedly committed offence's becoming time-barred had breached his right of access to a court, as provided in Article 6 of the Convention, which, in so far as relevant, reads as follows:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. Admissibility

25. The Government claimed that the application should be rejected as manifestly ill-founded, or otherwise owing to lack of victim status or owing to lack of an arguable claim for the purposes of Articles 6 and 13 of the Convention. In support of their objections, the Government submitted that the applicant did not have a legitimate expectation for a successful outcome of his criminal complaint against E.T. In addition, they claimed that no omissions or delays could be attributed to the domestic authorities and therefore, the application should be rejected as a whole.

26. The Court considers that the Government's objections refer to the merits of the application and should therefore be examined under that head. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The applicant's arguments

27. The applicant argued that the domestic authorities had not acted with expedition in the circumstances of the present case, and that they had knowingly let the statute of limitations expire. It had been the acts and omissions of the relevant authorities which had led to the offence's becoming time-barred. In particular, the authorities should not have suspended the proceedings in order to obtain leave from Parliament to continue the prosecution of E.T., as the offence had been committed prior to E.T.'s election as a member of parliament. In addition, the authorities had failed to finalise judgment no. 1656/2010 by which it had suspended the criminal proceedings against E.T. until the Greek Parliament had granted leave on time, as it had been published on 17 February 2010 and had been finalised on 10 August 2010, thus making it impossible for Parliament to consider the request before the offence had become time-barred.

28. As regards the exact date the offence became time-barred, the applicant initially submitted that the offence became time-barred on 4 September 2010. In his subsequent observations, he argued that the final judgment no. 8658/2012 issued by the Court of Appeal, which had held that the offence had been time-barred, had included several mistakes in its reasoning, which proved in his view that there had been no legal certainty as to how the statute of limitations had had to be applied in this case. In particular, he drew the Court's attention to another possible date on which the offence might have become time-barred, arguing that E.T.'s parliamentary immunity had acted as a temporary procedural barrier, and therefore the statute of limitations had been suspended for the whole period E.T. had been a deputy. According to that version, the offence of which E.T. had been accused of had become time-bared on 4 April 2013.

29. Lastly, the applicant did not deny that he had the right to lodge an action for non-pecuniary damage before the civil courts in order to obtain compensation. However, citing the Court's case-law with regard to the exhaustion of domestic remedies (*Tsalkitzis v. Greece*, no. 11801/04, §§ 32-34, 16 November 2006), the applicant argued that he had made normal use of the remedies available in domestic law and he was not obliged to lodge an action for damages before the civil courts in addition to his civil-party claim to the criminal proceedings. In any event, he had been informed that the offence of which E.T. had been accused had become time-barred only on 26 October 2012 in the hearing before the Court of Appeal and he had been able to read the relevant judgment only on 4 April 2013. By that time, it had no longer been possible to lodge an action for non-pecuniary damage before the civil courts, as the relevant claim had become time-barred on 4 March 2012.

2. The Government's arguments

30. As regards the offence's becoming time-barred, the Government argued that that was a legitimate restriction of one's right of access to a court ensuring legal certainty and finality, protecting potential defendants from stale claims which might be difficult to counter and preventing the injustice which might arise if courts were required to decide upon events which had taken place in the distant past on the basis of evidence which might have become unreliable and incomplete because of the passage of time. As regards the short statutory time-limit of offences committed through the press, the Government argued that it had been instituted so as to ensure the unimpeded functioning and freedom of the press. The competent public prosecutor's offices made sure that the offences would not be time-barred by marking the relevant case files as extremely urgent.

31. In respect of the specificities of the present case, the Government submitted that the offence of which E.T. was accused had become time-barred on 4 September 2010 pursuant to Article 48 (47) of Law no. 1092/1938, which provided that offences committed through the press became time-barred eighteen months after they had been committed, or, if the main proceedings had been initiated against the perpetrator, forty-two months after they had been committed. In any event, in the present case there had been no unjustified delays which could be held against the domestic authorities and thus be the basis for a finding of a violation owing to the allegedly committed offences becoming time-barred. On the contrary, the domestic authorities had acted with expedition and the applicant's complaint had been scheduled to be heard thirteen months after its lodging. Even after E.T.'s unexpected objection concerning lack of competence of the trial court, the case had been brought before the competent court promptly. Therefore, domestic authorities had done everything in their power to hear the case in good time and consequently, Article 6 § 1 had not been violated.

32. The Government further submitted that the applicant had had at his disposal another equally effective remedy, namely that of lodging an action with the civil courts in order to request compensation for any pecuniary and non-pecuniary damage he might have suffered owing to the actions of E.T. The applicant's claim before the civil courts, which he did not pursue, became time-barred five years after the events at issue took place, that is to say on 4 March 2012.

3. The Court's assessment

33. The Court notes at the outset that the applicant, considering that he had been defamed by E.T.'s statements, had lodged a complaint against her and had joined the subsequent criminal proceedings as a civil party, requesting initially EUR 100,000, a figure which he later reduced to

EUR 44. From that moment, those proceedings covered a civil right – namely the right to the protection of his reputation – to which the applicant could, on arguable grounds, claim to be entitled (see *Cordova (no. 1)*, cited above, § 49).

34. The Court observes that the applicant complained that his right of access to a court had been impeded owing to two different reasons, namely the refusal of Parliament to lift E.T.'s immunity and the offence's becoming time-barred, which the applicant considers to have taken place on account of delays and inactions by the domestic authorities. It additionally notes that the parties devoted the largest part of their submissions to the refusal of Parliament to lift E.T.'s immunity. In the Court's view, however, if the offence had become time-barred before Parliament had had a chance to consider the request to have E.T.'s parliamentary immunity lifted, then the subsequent refusal of that political body would have played no role in the applicant's right of access to a court. It is, therefore, crucial to clarify the exact date on which the offence became time-barred.

35. In this regard, the Court notes that initially both parties agreed that the offence of which E.T. had been accused had become time-barred on 4 September 2010, that is to say forty-two months after it had been allegedly committed, pursuant to Article 48 (47) of Law no. 1092/1938. It also notes that the Court of Appeal in its judgment no. 8658/2012, and notwithstanding any factual or legal mistakes that the applicant attributed to that judgment which are not for this Court to examine, held that the offence had become time-barred forty-two months after its alleged commission. In addition, at the hearing of 26 October 2012 before that court, the applicant via his lawyer conceded that the offence had become time-barred. Taking into account the material in its possession, and notably the observations of both parties and judgment no. 8658/2012 of the Court of Appeal, the Court accepts that the offence of which E.T. was accused became time-barred on 4 September 2010.

36. As regards the applicant's complaint that in the domestic system there was uncertainty in so far as the date of the offence of which E.T. was accused became time-barred, as proceedings could have been suspended for as long as she remained a member of the Parliament, the Court notes that in his application form the applicant solely complained on account of the acts and omissions of the domestic authorities which, in his view, had led to the offence's becoming time-barred. The complaint concerning the foreseeability of the offence's becoming time-barred was first mentioned by the applicant on his letter dated 21 December 2017 and therefore should be rejected as having been lodged outside of the time-limit of six months.

37. In view of the above-mentioned conclusion regarding the date the offence became time-barred, the Court considers that any subsequent events, such as the refusal of Parliament to lift E.T.'s immunity, did not have any bearing to the applicant's complaint concerning his right of access

to a court and will therefore limit its examination only to the facts prior to 4 September 2010.

38. The Court reiterates that the right of access to a court secured by Article 6 § 1 of the Convention is not absolute, but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State. In this connection, the Contracting States enjoy a certain margin of appreciation, although the final decision as to the observance of the Convention's requirements rests with the Court. It must be satisfied that the limitations applied do not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see *Baka v. Hungary* [GC], no. 20261/12, § 120, ECHR 2016, and *Al-Dulimi and Montana Management Inc. v. Switzerland* [GC], no. 5809/08, § 129, ECHR 2016).

39. While there is no right under Article 6 of the Convention to a particular outcome of criminal proceedings (see *Withey v. the United Kingdom* (dec.), no. 59493/00, ECHR 2003-X), there is indisputably a right to have one's case heard by a court within a reasonable time once the judicial process has been set in motion (see *Kart v Turkey*, § 68).

40. In this regard, the Court notes that in a number of cases it has found a violation when the closure of the criminal proceedings and the failure to examine the civil action were due to circumstances attributable to the judicial authorities, including excessive delays in the course of proceedings which led to the offence's becoming time-barred (see *Rokas v. Greece*, no. 55081/09, §§ 22-24, 22 September 2015; *Korkolis v. Greece*, no. 63300/09, §§ 21-25, 15 January 2015; *Atanasova v. Bulgaria*, no. 72001/01, §§ 44-47, 2 October 2008; and *Anagnostopoulos v. Greece*, no. 54589/00, §§ 31-32, 3 April 2003).

41. The Court additionally notes that in other cases in which a civil party's complaint was not examined on account of the inadmissibility of the criminal complaints to which it was attached, the Court attached importance to the accessibility and effectiveness of other judicial remedies available to applicants, notably any actions before the civil courts (see *Forum Maritime S.A. v. Romania*, nos. 63610/00 and 38692/05, § 91, 4 October 2007). In the cases in which it considered that the applicants did have such remedies, it concluded that there had been no violation of the right of access to a court (see *Assenov and Others v. Bulgaria*, 28 October 1998, § 112, *Reports of Judgments and Decisions* 1998-VIII I; *Ernst and Others v. Belgium*, no. 33400/96, §§ 53-55, 15 July 2003; *Moldovan and Others v. Romania (no. 2)*, nos. 41138/98 and 64320/01, §§ 119-122, ECHR 2005-VII (extracts); and *Lacerda Gouveia and Others v. Portugal*, no. 11868/07, § 80, 1 March 2011).

42. The Court further notes that the applicant did not dispute the limitation periods as such. Rather, his complaint addressed mostly what he considered to be "omissions" or "acts" on the part of the judicial authorities, who had knowingly allowed the limitation period to expire, in violation of Article 6 § 1 of the Convention (see *Lacerda Gouveia and Others*, cited above, § 74). In particular, the applicant drew the Court's attention mainly to two elements which, in his view, proved the domestic authorities' negligence: firstly, the decision of the Court of Appeal, by which the proceedings had been suspended until Parliament granted leave to continue the prosecution of E.T. and the time that had elapsed from the date that judgment had been published on 17 February 2010 until it had been finalised on 10 August 2010. The Court will examine whether the above-mentioned elements amount to "negligence" on the part of the domestic authorities within the meaning of the *Anagnostopoulos* case-law mentioned above, while bearing in mind that it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I).

43. In respect of the first element, the Court notes that a system of prior leave in order to lift a deputy's immunity cannot *per se* be considered as contrary to the Convention. In the Court's judgments *Tsalkitzis* and *Syngelidis* (both cited above), both relied on by the applicant, the Court concluded that violations of Article 6 § 1 of the Convention had occurred on account of Parliament's refusal to lift a deputy's immunity, and not on account of the domestic courts' decision to suspend the proceedings in order to obtain Parliament's leave to initiate criminal proceedings. In view of the above, the Court does not discern any element of arbitrariness in the domestic court's decision to suspend the proceedings. As regards the period of eight months that passed from the publication until the finalisation of that decision, the Court notes that even though it is undoubtedly long, it cannot be considered in itself unreasonable or the cause of the offence of which E.T. was accused subsequently becoming time-barred. In any event, the Court underlines that domestic law suspends the deadline leading to a particular offence becoming time-barred when a criminal prosecution cannot continue in accordance with a legal provision (see paragraph 21 above).

44. Turning to the examination of the procedure as a whole until 4 September 2010, when the offence of which E.T. was accused became time-barred, the Court notes that the delay in the proceedings was the result of the decisions of the prosecuting and judicial authorities as well as of the negligence or inaction of the same authorities, as was the case in the above-mentioned judgments in which the Court concluded that the right of access to a court had been infringed (see *Rokas*, § 24; *Korkolis*, §§ 23-24; *Atanasova*, §§ 44-47; and, *Anagnostopoulos*, §§ 31-32, all cited above).

Indeed, the Court notes that that the delay was mostly the result of appeals against some of the decisions of the prosecuting authorities, such as the decision by which the applicant's criminal complaint was initially dismissed or the decision by which E.T. was indicted, or due to some unforeseen events, such as E.T.'s objection concerning the court's competence or the domestic courts' recess on account of the parliamentary elections. In those circumstances, the Court considers that it is difficult to speak of procedural deficiencies in the context of the proceedings at issue at least until 4 September 2010, when the offence of which E.T. was accused became time-barred.

45. The present case, therefore, is distinguishable from the case *Anagnostopoulos* (cited above), in which the Court concluded that there had been a violation of Article 6 § 1 of the Convention as it had identified several delays and criticised the domestic authorities for long periods during which no action had been taken. On the contrary, the Court notes that in the present case the domestic authorities, following the applicant's criminal complaint, conducted urgent preliminary enquiries and that in every step of the procedure marked the case file as urgent, taking all available steps to prevent the offence becoming time-barred.

46. The Court additionally notes that, according to the Government's submissions, which were not rebutted by the applicant, the latter had had at his disposal another remedy to claim compensation for the damage allegedly caused to his reputation, namely an action before the civil courts, which had become time-barred only on 4 March 2012. It was the applicant's choice not to pursue that remedy, even though he was aware that the criminal offence was to become time-barred imminently, as proven by his submissions before the Court of Appeal at the hearing of 17 February 2010. The Court recalls that in similar cases it found no violation of the right of access to a court when it considered that the applicant, whose civil party's complaint was not examined on account of the inadmissibility of the criminal complaints to which it was attached, had other accessible and effective remedies at his disposal (see paragraph 41 above and the cases cited therein).

47. In the light of the foregoing considerations, the Court cannot conclude that the applicant was deprived of his right of access to a court. There has been, therefore, no violation of Article 6 § 1 of the Convention on account of the applicant's right of access to a court.

II. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION ON ACCOUNT OF THE LENGTH OF THE PROCEEDINGS AND THE LACK OF AN EFFECTIVE REMEDY IN THAT RESPECT

48. The applicant complained that the length of the proceedings before the domestic courts had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention. He also complained that at the time, there had been no effective remedy in Greece for his complaint concerning the length of the proceedings. He relied on Articles 6 § 1 and 13 of the Convention, which, in their relevant parts read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

49. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible

A. Period to be taken into consideration

50. The period to be taken into consideration started on 1 June 2007, the date on which the applicant lodged the criminal complaint and expressed his wish to join the proceedings as a civil party (see *L.E. v. Greece*, no. 71545/12, § 92, 21 January 2016). It ended on 26 October 2012, when the Court of Appeal published judgment no. 8658/2012 in which it considered that the offences of which E.T. was accused had become time-barred. In this regard, the Court notes that the parties erroneously maintained that the relevant period had ended when judgment no. 8658/2012 had been finalised. The Court reiterates its case-law according to which when domestic law does not provide for service of judgments, as in the present case, then the date on which the parties may actually find out their content must be taken into consideration (see *Papachelas v. Greece* [GC], no. 31423/96, § 30, ECHR 1999-II). The proceedings at issue were criminal proceedings, in which the competent authorities published their judgment on the date of the hearing, so the parties were immediately informed that the offence of which E.T. was

accused had become time-barred. Therefore, the period to take into consideration ended on 26 October 2012 and the proceedings lasted in total five years and almost five months for one instance.

B. Reasonableness of the length of the proceedings

51. The Government submitted that certain periods should be deducted from the overall time that the proceedings lasted, and that what remained could not be considered excessive. In particular, they argued that the period from 10 August 2010 until 12 April 2012 – when proceedings had been suspended until Parliament granted leave for the prosecution of E.T – should not be taken into account. They also maintained that the delay caused by E.T., who made known her capacity as a lawyer and objected to the trial court's jurisdiction when the case had already been scheduled to be heard, should not be attributed to the Government. The same considerations applied also to the adjournment that took place following the applicant's request which caused a further delay.

52. The applicant contested the above-mentioned arguments. In particular, he argued that the whole period of five years and five months should be taken into account as all the delays should be attributed to the domestic authorities. In particular, he argued that the conduct of E.T., who had objected to the competence of the trial court for the first time on 18 September 2008, causing a significant delay in the proceedings, could not be attributed to him. He also maintained that he could not be held accountable for the adjournment that had taken place owing to the absence of an important witness and that the domestic authorities could have set the hearing dates closer the one to another.

53. The reasonableness of the length of proceedings must be assessed, in accordance with well-established case-law, in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 143, ECHR 2016 (extracts); and *Michelioudakis v. Greece*, no. 54447/10, §§ 42 - 43, 3 April 2012).

54. The Court has examined on many occasions cases raising the issue of excessive length of criminal proceedings with a civil party claim and concluded that there had been a breach of Article 6 § 1 (see the pilot judgment *Michelioudakis*, cited above, and the cases cited therein at §§ 68-70).

55. Turning to the circumstances of the present case, the Court reiterates that it does not observe any excessive delays on the part of the authorities before 4 September 2010, when the offence of which E.T. was accused

became time-barred (see paragraph 44 et seq. above). However, and without ignoring the complexity of the present case, the Court notes that more than two years passed from the date the offence became time-barred until judgment no. 8658/2012 of the Court of Appeal was published holding that the offence had become time-barred. In the Court's view, however, such a delay for what was merely a procedural decision was excessive. The Court also notes that the Government did not adduce any argument as to why it had been necessary for the domestic courts to wait until E.T.'s status as a parliamentarian had ended to then hold a hearing in order to rule that the offence had become time-barred. Having regard to its case-law on the subject, the Court considers that the Government have advanced no fact or argument justifying a different conclusion in the present case. Therefore, in the instant case the overall length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

56. Accordingly, there has been a breach of Article 6 § 1 of the Convention.

57. Turning to the applicant's complaint under Article 13 of the Convention, the Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudła v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI).

58. Moreover, the Court has already had the opportunity to observe that the Greek legal system did not offer the interested parties at the material time an effective remedy within the meaning of Article 13 of the Convention enabling them to complain about the length of proceedings (see, among many other authorities, *Michelioudakis*, cited above, § 54). In the light of the foregoing considerations, the Court finds that there has been a violation of Article 13 of the Convention in that the applicant had no domestic remedy whereby he could enforce his right to a "hearing within a reasonable time" as guaranteed by Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

60. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage.

61. The Government contested the sum requested by the applicant and argued that it was excessive and unjustified in view of the particularities of the case and of the financial situation of Greece.

62. The Court, taking into consideration the nature of the violation found and the need to determine the amount in such a way that the overall sum is compatible with the relevant case-law and is reasonable in the light of what was at stake in the proceedings in question (see *Arvanitaki-Roboti and Others v. Greece* [GC], no. 27278/03, § 36, 15 February 2008) awards the applicant EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

63. The applicant also claimed EUR 1,000 for the costs and expenses incurred before the Court, asking for it to be deposited directly in the bank account of his representative's organisation, Greek Helsinki Monitor.

64. The Government argued that the amount should be rejected.

65. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see *Stoica v. Romania*, no. 42722/02, § 141, 4 March 2008). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 600 for costs and expenses in the proceedings before the Court. This sum will be paid into the bank account of Greek Helsinki Monitor (see *L.E. v. Greece*, no. 71545/12, § 107, 21 January 2016).

C. Default interest

66. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint regarding the foreseeability of the legislation in respect of statutory limitations of the offences in question as inadmissible and the rest of the application admissible;

2. *Holds* that there has been no violation of Article 6 § 1 of the Convention on account of the applicant's right of access to a court;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the length of the proceedings;

4. *Holds* that there has been a violation of Article 13 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 600 (six hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be deposited directly to the bank account of his representative;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 19 April 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos
Registrar

Kristina Pardalos
President