



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

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THIRD SECTION

Application no. 1352/21
Irimi TZIVA
against Greece
lodged on 30 December 2020
communicated on 2 October 2026

SUBJECT MATTER OF THE CASE

The application concerns disciplinary proceedings brought against the applicant, a public prosecutor.

On 17 January 2017 the applicant had been instructed by the Prosecutor of the Court of Cassation to conduct a preliminary criminal investigation. On the same date, she was informed by P.Ch., an officer of the coast guard, and by the Minister of Justice that a detained person, E.G., wished to provide a statement in relation to that investigation.

On 5 April 2017 E.G. lodged a criminal complaint against the applicant and P.Ch., alleging that, during her visit to the Avlonas Special Detention Centre (EKKNA) on 17 January 2017, the applicant had unlawfully pressured him to testify against E.M. and that P.Ch. had exerted similar pressure on 20 March 2017. On 23 June 2017 E.M. lodged a further criminal complaint against P.Ch. and any other person responsible, alleging attempted abuse of authority in relation to the same events. Following those complaints, a preliminary criminal investigation was conducted. By Act no. 74/2017 of the Prosecutor of the Piraeus Court of Appeal, the complaints against the applicant were dismissed and the case was archived. The prosecutorial authorities found no evidence, or even suspicion, that the applicant had committed the offences alleged. In parallel, disciplinary proceedings were conducted in respect of the applicant. One set of proceedings concerned allegations relating to her lifestyle, while another concerned her visit to E.G.

at the Avlonas Special Detention Centre on 17 January 2017. Those proceedings were archived by Acts nos. 1262/17/10.01.2018 and 724/13/11.2018 of the Prosecutor of the Court of Cassation, respectively.

In the course of 2017 and 2018, press publications and reports submitted to the authorities alleged, *inter alia*, that the applicant had travelled to Tokyo with P.Ch. and maintained a personal relationship with him. On the basis of those publications and reports, a disciplinary investigation was ordered on the ground that the applicant had engaged in conduct incompatible with the dignity and impartiality required by her office. On 14 February 2019 the investigator of the Court of Cassation submitted his report and conclusions concerning the disciplinary charges against the applicant relating to her alleged relationship with P.Ch. The seven-member disciplinary council of the Court of Cassation dismissed the disciplinary charges relating to her alleged relationship with P.Ch. The Minister of Justice and the President of the Inspection Council lodged appeals against that decision. During the appellate proceedings before the nine-member disciplinary council of the Court of Cassation, the applicant's request for the examination of an additional witness was dismissed as out of time. By decision no. 19/2020 of 30 June 2020, the nine-member disciplinary council found the applicant guilty of conduct incompatible with the dignity of her office and imposed a disciplinary sanction consisting of a two-month salary reduction (approximately EUR 8,000). In reaching its decision, the council took into account, *inter alia*, the report and conclusions of the investigator of the Court of Cassation dated 14 February 2019 and recordings of telephone conversations which had been published online concerning alleged attempts by P.Ch. to persuade E.G. to give evidence against E.M.

The applicant complains under Article 8 of the Convention that the disciplinary sanction imposed on her on account of her alleged trip to Tokyo with P.Ch. and their purported personal relationship amounted to an interference with her right to respect for her private life. She submits that the matters relied upon by the disciplinary authorities concerned exclusively her private life and had no bearing on the performance of her professional duties. Relying on Article 6 §§ 1 and 3 (c) and (d) of the Convention, the applicant further complains that the disciplinary proceedings were unfair. She alleges, in particular, that the disciplinary authorities reversed the burden of proof by requiring her to disprove the allegations against her. She also maintains that she was not placed in a position enabling her to effectively contest the evidence, as the disciplinary bodies relied on anonymous complaints and untested allegations while refusing to examine relevant witnesses or to take investigative steps capable of corroborating or refuting those allegations. She further complains that the disciplinary authorities took into account the report and conclusions of the investigator of the Court of Cassation dated 14 February 2019, which, according to her, constituted the procedural basis of the disciplinary charges rather than evidence against her, as well as

recorded telephone conversations between third persons which did not concern her, without examining the lawfulness of their recording. She also submits that the appeals lodged by the Minister of Justice and the President of the Inspection Council against the decision of the seven-member disciplinary council lacked sufficiently specific grounds, thereby preventing her from preparing her defence effectively.

Lastly, relying on Article 4 of Protocol No. 7, the applicant complains that the disciplinary proceedings were based on the same, or substantially the same, facts as those examined in the earlier criminal and disciplinary proceedings, which had been discontinued and archived respectively.

QUESTIONS TO THE PARTIES

1. Did the disciplinary proceedings brought against the applicant, and in particular the finding that she had engaged in undignified conduct on account of her alleged personal relationship and private activities, constitute an interference with her right to respect for her private life within the meaning of Article 8 of the Convention? If so, was that interference in accordance with the law, did it pursue a legitimate aim, and was it necessary in a democratic society (see *Özpinar v. Turkey*, no. 20999/04, §§ 43-49 and 67-79, 19 October 2010)?

2. In light of the particular circumstances of the present case and the arguments raised by the applicant, did the disciplinary proceedings against her involve the determination of a “criminal charge” and therefore fall to be examined under the criminal limb of Article 6?

3. Did the disciplinary proceedings against the applicant, taken as a whole, comply with the requirements of a fair hearing within the meaning of Article 6 § 1 of the Convention, whether under its criminal or civil limb?

4. Provided that the disciplinary proceedings against the applicant involved the determination of a “criminal charge” and Article 4 of Protocol No. 7 is considered to be applicable in the circumstances of the present case, was the applicant tried twice for the same offence, in breach of that provision (see *Sergey Zolotukhin v. Russia* [GC], no. 14939/03, §§ 52-53 and 78-84, ECHR 2009, and *A and B v. Norway* [GC], nos. 24130/11 and 29758/11, §§ 105-107 and 125-134, 15 November 2016)?