



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

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THIRD SECTION

Application no. 39928/16
Panagiotis KONTALEXIS and Spyridon TASOGLOU
against Greece
lodged on 7 July 2016
communicated on 2 October 2026

SUBJECT MATTER OF THE CASE

The application concerns the applicants' complaints of a breach of their presumption of innocence on account of statements by public officials while criminal proceedings had been pending against them. It further concerns the first applicant's complaint of a breach of the *ne bis in idem* principle on account of the imposition of an administrative fine on him despite his prior final criminal conviction in respect of the same facts.

The applicants were charged with fraud and money laundering in connection to a widely publicised criminal case pertaining to the Athens Stock Exchange and acquitted at first instance (judgment no. 6459/2013 of the Athens Criminal Court of Appeal). On 18 December 2013, the Prosecutor at the Court of Cassation was quoted in a newspaper as expressing surprise in relation the applicant's acquittal and describing the judgment as a "provocation". On 1 January 2014, in his new-year statements to journalists, the President of the Hellenic Republic stated that one should "take heads" (*να παίρνεις κεφάλια*) when it comes to corruption, and that he found the acquittal regarding the "stock exchange" as "repulsive" (*αποκρουστική*), noting that there was a second level of jurisdiction.

The deputy Prosecutor at the Court of Cassation subsequently lodged an appeal on points of law against the applicants' acquittal. The applicants argued that the appeal should be dismissed notably as there had been a breach of their right to be presumed innocent under Article 6 § 2 of the Convention

due to the above-mentioned public statements. The Court of Cassation dismissed the applicants' grievances, quashed the acquittal and remitted the case back to the first-instance court (judgment no. 75/2016, published on 13 January 2016). The Athens Criminal Court of Appeal finally acquitted the applicants (judgment no. 18/2019).

The first applicant was fined by the Hellenic Capital Market Commission for abuse of confidential information. He appealed to the Athens Administrative Court of Appeal arguing that he had been subject to a final criminal conviction for the same facts (criminal market manipulation) by judgment no. 1529/2008 of the Court of Cassation. The applicant's appeal was dismissed by the Athens Administrative Court of Appeal (judgment no. 3789/2012).

The applicant lodged an appeal on points of law. The Supreme Administrative Court granted it (judgment no. 901/2024). It found that the Administrative Court of Appeal had erred in finding that it was bound to uphold the administrative fine because of the applicant's prior criminal conviction for the same facts. The Administrative Court of Appeal should have made its own assessment of the case while giving due consideration to the criminal conviction and either uphold or annul the fine, having due regard to whether the criminal conviction was in itself a dissuasive and proportionate sanction considering the severity of the offence.

The Administrative Court of Appeal, upon remittal, dismissed the appeal (judgment no. 92/2026). In particular, it held that while the two sets of proceedings concerned the same facts, the criminal conviction had not been sufficient to punish the offence and deter similar ones in the future. It therefore accepted that the imposition of the administrative fine was compatible with the *ne bis in idem* principle. The first applicant lodged an appeal of points of law, which is currently pending.

The applicants complain under Article 6 § 2 of the Convention that the above-mentioned public statements amounted to a violation of their right to be presumed innocent. They further complain under Article 6 § 1 that these public statements casted doubt on the objective impartiality of the criminal courts that tried their case.

The first applicant also complains that the imposition of the administrative fine by the Capital Market Authority despite his prior final criminal conviction of the same facts amounted to a violation of Article 4 of Protocol No. 7.

QUESTIONS TO THE PARTIES

1. Have the applicants exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention? In particular, was the civil action for damages in accordance with Article 7 of Law no. 4596/2019 in conjunction with Article 105 of the Introductory Law of the Civil Code an effective remedy within the meaning of Article 35 § 1 of the Convention in respect of the applicants' complaint under Article 6 § 2?

2. Was the presumption of innocence, guaranteed by Article 6 § 2 of the Convention, respected in the present case with respect to both applicants, having regard to the public statements made by the Prosecutor at the Court of Cassation on 18 December 2013 and the President of the Republic on 1 January 2014 in the context of the criminal proceedings that led to the adoption of judgment no. 18/2019 of the Athens Criminal Court of Appeal (see also *Peša v. Croatia*, no. 40523/08, § 149, 8 April 2010; *Konstas v. Greece*, no. 53466/07, §§ 43 and 45, 24 May 2011; and *Gutsanovi v. Bulgaria*, no. 34529/10, §§ 194-198, ECHR 2013 (extracts))?

3. Has the first applicant been tried twice for the same offence in breach of Article 4 § 1 of Protocol No. 7, on account of (a) his final criminal conviction leading to the adoption of judgment no. 1529/2008 of the Court of Cassation and (b) the administrative proceedings pertaining to the administrative fine imposed by the Capital Market Commission (see *Jesus Pinhal v. Portugal* [GC], no. 48047/15, §§ 199-251, 9 July 2026, with further references)?