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Meeting: 1545<sup>th</sup> meeting (December 2025) (DH)

Item reference: Revised action report (26/11/2025)

Communication from Greece concerning the case of Church of Greece v. Greece (Application No. 44547/15)

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Réunion : 1545<sup>e</sup> réunion (décembre 2025) (DH)

Référence du point : Bilan d'action révisé (26/11/2025)

Communication de la Grèce concernant l'affaire Eglise de Grece c. Grèce (requête n° 44547/15) (**anglais uniquement**)

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## **ACTION REPORT**

### **CHURCH OF GREECE v. GREECE (application no 44547/15, judgment of 21.01.2025, final on 21.04.2025)**

#### **I. DESCRIPTION OF THE CASE.**

1. The case concerned a violation of the applicant's right of access to a court under Article 6 § 1 of the European Convention on Human Rights, as the hearing of the vindicatory action it had brought against the State was declared inadmissible due to the applicant's failure to comply with the obligation to submit a certificate confirming that the disputed property had been declared for taxation [Uniform Real Estate Ownership Tax (ENFIA) or Real Estate Property Tax (FAP)] for the preceding five (5) years.

2. The applicant managed the land property of the Holy Monastery of Asomaton Petraki which owned three large plots of land in Attica. In 1978, the Monastery donated the said land to the Greek State for hospital construction, on the condition that priests and their families receive free medical care. The deed also provided that if the hospital was not built within ten years, the donation could be unilaterally revoked.

3. Due to the failure to construct the above hospital, on 21 November 2013, the applicant lodged an action before the Athens Court of First Instance against the Hellenic State, seeking:

- (a) a declaration that the resolutive condition of donation had been fulfilled;
- (b) recognition of the applicant's ownership of the specific land properties; and
- (c) the eviction of the Hellenic State from the disputed lands.

4. The Church of Greece argued that it was not required to submit a certificate showing that the disputed properties were declared as taxable properties, nor proof of payment of the relevant tax (ENFIA), since the properties in question were in the possession of the State, which therefore bore that obligation. It also referred to decision no. 2/2014 of the Chania Court of First Instance, which had found the relevant requirement unconstitutional.

5. In 2015, the Athens Court of First Instance, by its judgment no. 573/2015, declared the hearing of the case inadmissible on the grounds that the applicant had failed to submit the above certificate required under Article 54A § 5 of Law 4174/2013.

6. In 2018, the Church of Greece requested the annulment of that judgment, arguing that submission of the certificate had been impossible, since ownership of the properties was disputed and the State was in possession of them. Furthermore, if the properties were deemed to have been incorporated into the urban plan, their objective value amounted to €53 million, which would entail a tax liability of approximately €500,000—an amount impossible to pay for properties under judicial dispute. The Church contended that the requirement to submit such a certificate was

unconstitutional and contrary to Article 6 § 1 of the Convention and the right to property, as it served fiscal rather than judicial purposes.

7. In 2019, the Athens Court of First Instance, by its judgment no. 1829/2019, dismissed the request for annulment, holding that payment of the tax was not required—only inclusion of the property in the ENFIA declaration—and that this obligation did not violate the right of access to a court or the right to property.

8. The European Court of Human Rights (ECtHR) found that the requirement under Article 54A § 5 of the Code of Tax Procedure, making the admissibility of an action dependent on the submission of a certificate proving that land tax in respect of the disputed properties had been paid for the previous five years violated the right of access to a court. The Court acknowledged that the establishment of said tax (ENFIA) served the goal of fiscal stability and that tax legislation may regulate procedural matters. However, in this case, the obligation to pay tax on property subject to judicial dispute imposed an excessive and disproportionate restriction. The fact that the State was exempted from that obligation further highlighted the inequality of the measure.

9. Moreover, the ECtHR noted that the impugned requirement had been introduced after the Church of Greece had filed its action, and that despite the subsequent legislative amendment abolishing the requirement to prove payment of the tax (while maintaining the obligation to declare the property), the above mentioned decisions of the Athens Court of First Instance had deprived the applicant of a substantive judicial examination of her case.

## **II. INDIVIDUAL MEASURES**

### *Payment of Just Satisfaction*

10. On 24 July 2025, the aforementioned amount awarded to the applicant as just satisfaction was paid, and subsequently the Committee of Ministers was informed accordingly, by document no. 103-3901/A2530 of the Legal Council of the State.

### *Further Individual Measures*

11. The applicant has the possibility to request, by means of a summons for the resumption of the hearing (Article 254 of the Code of Civil Procedure), the annulment of judgments no. 573/2015 and 1829/2019 of the Athens Multi-Member Court of First Instance, which had declared inadmissible the hearing of its claim on the ground that it had not submitted a certificate issued by the head of the competent Public Financial Service, attesting that the disputed properties had been declared for the Uniform Real Estate Ownership Tax (ENFIA) or Real Estate Tax (FAP), in accordance with Article 54A §4 of Law 4174/2013.

12. In this request, the applicant may invoke:

- (a) the present judgment of the Court, which found that the obligation imposed by Article 54A §4 of Law 4174/2013 violates Article 6 §1 of the European Convention on Human Rights (ECHR); and
- (b) the case-law of the Court of Cassation (Areios Pagos) and lower courts, according to which the said obligation has been deemed inapplicable as unconstitutional and contrary to the Convention.

The applicant availed itself of this possibility and requested the revocation of the impugned domestic judgment.

The authorities recall that the relevant domestic case-law is firmly established (see below under the general measures). In particular, pursuant to the well-established practice of the domestic courts, the impugned provision — which had previously led to the applicant's claim being declared inadmissible and had prevented the applicant's access to a court — has been found unconstitutional and contrary to Article 6 § 1 of the Convention. Moreover, it is noted that the Court of Cassation judgment no. 1143/2019, which is cited below under the general measures, was delivered after the applicant's attempt to have the domestic judgment revoked, an attempt which had been dismissed by the Athens Court of First Instance. The authorities consider that the above elements will ensure a positive outcome in this application, allowing the applicant to have access to a court and to obtain a substantive judicial examination of its case, thereby placing it in the position it would have occupied prior to the violation.

### **III GENERAL MEASURES**

13. As noted in the judgment at issue, article 54A of Law 4174/2013 — as amended initially by Article 4 §7 of Law 4254/2014 and subsequently by Article 13 §6 of Law 4474/2017 — established the inadmissibility of a hearing of an in rem (real property) claim where the plaintiff (or liable person) failed to submit a certificate showing that the disputed property had been declared for taxation for the preceding five years. According to the Court, both the original version of the provision (as amended by article 4 §7 of Law 4254/2014), which required submission of a certificate confirming the declaration of the property for ENFIA/FAP purposes *and* a receipt of payment of the relevant tax for the preceding five years, and the current version (from which the requirement of proof of payment has been removed) violate the right of access to a court because they serve fiscal purposes rather than the administration of justice.

14. An adequate and appropriate general measure of compliance to prevent similar violations in the future would be the domestic courts' fixed case law finding the obligation imposed by article 54A of Law 4174/2013 inapplicable, on the grounds that it contravenes the Convention and the Greek Constitution.

15. A series of decisions delivered by Greek courts have now held that this provision serves a purely fiscal purpose and, as such, cannot be integrated into the procedural framework as a condition of admissibility, since it substantially affects the right to

judicial protection and contravenes the constitutional provisions governing fair trial. The previous version of the provision was found unconstitutional and contrary to Article 6 §1 of the Convention by judgments nos. 1143/2019, 275/2024, and 290/2023 of the Court of Cassation. Following its amendment, the provision has again been deemed inapplicable as unconstitutional and contrary to the ECHR (see judgments no. 9/2025 of the Dodecanese Court of Appeal, 52/2024 of the Piraeus Court of Appeal, 2703/2024 of the Athens Multi-Member Court of First Instance, inter alia).

16. More specifically, according to this case-law, the provision in question is neither a rule of the Code of Civil Procedure (CCP) nor part of the general system of procedural rules ensuring balance between litigants and fair trial. Rather, it is a special rule imposed for fiscal purposes. Therefore, its breach cannot automatically render inadmissible the hearing of a real property claim—especially since the fiscal objectives pursued can be achieved by other means (e.g., through interaction between tax authorities) without depriving a litigant of the right to have his or her case judicially examined, in violation of the Constitution and the Convention. This case-law is now fully consistent with the present judgment, and its consolidation prevents the recurrence of similar violations in the future.

#### *Translation and dissemination of the Court's judgment*

17. The judgment was translated into Greek. The Agent's Office transmitted it to the President of the Court of Cassation, to ensure dissemination to all competent judges of civil jurisdiction, as well as to the Ministry of Justice. The Greek translation of the judgment is also publicly accessible on the website of the Legal Council of State ([www.nsk.gov.gr](http://www.nsk.gov.gr)).

#### **IV. CONCLUSION**

18. In view of the above-mentioned the Greek Government considers that no further individual or general measures are necessary and thus, the supervision of the execution of the above judgment should be terminated.