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**Date:** 18/04/2018

**DH-DD(2018)414**

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Meeting: 1318<sup>th</sup> meeting (June 2018) (DH)

Item reference: Action report (18/04/2018)

Communication from Greece concerning the case of Poulimenos and Others v. Greece (Application No. 41230/12)

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Réunion : 1318<sup>e</sup> réunion (juin 2018) (DH)

Référence du point : Bilan d'action

Communication de la Grèce concernant l'affaire Poulimenos et autres c. Grèce (requête n° 41230/12)  
**(anglais uniquement)**

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## **ACTION REPORT ON THE EXECUTION OF THE JUDGMENT OF THE EUROPEAN COURT OF HUMAN RIGHTS IN THE CASE OF**

**POULIMENOS AND OTHERS v. GREECE (application no 41230/12, judgment  
of 20.07.2017, final on 20.10.2017)**

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

The case in question concerned the calculation of the amount of compensation for the expropriated land of the applicants and in particular the time taken by the judicial authorities as reference point for the evaluation of said expropriated land. The request of the applicants concerning the determination of the value of their expropriated plot of land was examined three times, namely in 1997 (provisional determination of compensation by the one-member first instance court of Athens), in 1999 (final determination of compensation by the multi-member first instance court of Athens) and in 2012 (on appeal by the Athens Court of Appeals). In 2012 the Court of Appeals set aside the contested judgment of the multi-member first instance court and subsequently, in line with established case-law, evaluated the land taking as reference point the value of the property at the time of the hearing before the multi-member first instance court concerning the final determination of compensation (9 November 1999) and not its value at the time of the hearing of the case before it (2012). The European Court held that the Athens Court of Appeals had absolutely ignored the difference of the value of the expropriated land between 1999 and 2012 and, therefore, its judgment had upset the balance between the protection of the right to property and the public interest (§ 52, violation of Article 1 of the Protocol No 1).

The European Court awarded the applicants the amount of €39.150 for pecuniary damage as well as the amount of €2.000 for non-pecuniary damage.

## **II. INDIVIDUAL MEASURES**

The applicants were awarded 39.150 € as just satisfaction for pecuniary damage. According to the European Court's judgment this amount represented the difference between the amount awarded by the Athens Court of Appeals corresponding to the value of the expropriated land in 1999 and the value of the land calculated on the basis of the average consumer index between 1999 and 2012. The applicants, as mentioned above, were also awarded €2000 for non-pecuniary damage. The Greek Government paid the amounts awarded to the applicants on 27-10-2017, as per the letter transmitted to the Department of Execution of Judgments of the Council of Europe, dated March 26<sup>th</sup>, 2018 with ref. no 49533/595481,693780.

## **III. GENERAL MEASURES**

### *a. Change of legislation and case-law*

The violation found in this case originated in the fact that the Athens Court of Appeals calculated the final compensation for the expropriation on the basis of the value of the expropriated property at the time of the hearing of the case before the multi –membered first instance court (1999) and not at the time of the hearing of the case before it (2012) and, therefore, it absolutely ignored the difference of the value of the expropriated property between 1999 and 2012.

The expropriation in question was an expropriation implemented in the town plan of Ellinikon for the widening of a road. The procedure for the determination of the compensation was regulated by legislation in force before the new Expropriations Code entered into force (6 May 2001). According to said earlier legislation, provisional determination of the compensation for expropriated property fell within the jurisdiction of the one-member first instance court, whilst final determination of the compensation fell within the jurisdiction of the multi-member first instance court.

The decision of the latter could be appealed before the Court of Appeals, which, even in case of setting aside the challenged judgment, could determinate the compensation on the basis of the value of the expropriated property at the time of the hearing of the case before the multi-member first instance court and not at the time of the hearing of the case before it.

According to amended legislation, the provisional determination of the compensation falls within the jurisdiction of the one-member court of Appeals, whilst the final determination of the compensation falls within the jurisdiction of the three-member Court of Appeals. The judgment of the latter can be appealed only in cassation. According to judgment no 2/2015 of the Plenary of the Court of Cassation if the contested judgment of the Court of Appeals is annulled the case is referred back to this court (the Court of Appeals) which is bound to calculate the final compensation on the basis of the value of the expropriated property at the time of the new hearing of the case before it, namely at the time of the hearing following the annulment of the first judgment delivered by the Court of Cassation.

It is noted that there are no applications for determination of compensation for expropriation regulated by the earlier legislation. All applications requesting determination of compensation which were filed after 6 May 2001 are regulated by the New Code of Expropriations even if they concern expropriations declared before the date the Code entered into force.

It flows from the above mentioned that the implementation of the new legislation by the Court of Cassation is in line with the European Court's findings in the present case and, therefore, it is unlikely that similar violations will re-emerge.

*b. Translation, publication and dissemination of the judgment*

The judgment at issue was translated into Greek. This translation is publicly accessible at the website of the Legal Council of the State ([www.nsk.gov.gr](http://www.nsk.gov.gr)).

The judgment was sent to the Ministry of Justice, Transparency & Human Rights in order that dissemination to the Court of Cassation and all Greek courts takes place. The Ministry of Justice, Transparency & Human Rights disseminated the judgment to the Court of Cassation on January 26<sup>th</sup>, 2018. The Court of Cassation has disseminated the judgment to the heads of all civil courts on February 2<sup>nd</sup>, 2018.

#### **IV. STATE OF EXECUTION OF THE JUDGMENT**

Taking into account that payment of the amounts awarded as just satisfaction has been done and that the above mentioned general measures have been taken, the Greek Government considers that no further measure is required. Thus, the supervision of the present case should be concluded.

#### **V. CONCLUSION**

The Greek Government considers that no further individual or general measure is necessary in order to prevent similar violations of Article 1 of the Protocol No 1.