

# EUROPEAN COURT OF HUMAN RIGHTS

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Press release issued by the Registrar

## CHAMBER JUDGMENTS CONCERNING France, the Netherlands, Romania and the United Kingdom

The European Court of Human Rights has today notified in writing the following four Chamber judgments, of which only *Zanguropol v. Romania* and *Atkinson v. the United Kingdom* are final.<sup>1</sup>

### Section 2

**(1) *Zanguropol v. Romania*** (application no. 29959/96) ***Struck out***  
Maria-Otilia Zanguropol is a Romanian national, who was born in 1924 and lives in Bucharest.

The applicant complained that the Supreme Court's refusal to recognise the jurisdiction of the domestic courts to hear an action she had brought to establish title to a property in Buzau which had been nationalised in 1958 infringed Article 6 § 1 of the European Convention on Human Rights (right to a fair trial). She also complained under Article 1 of Protocol No. 1 (protection of property) of an interference with her right to the peaceful enjoyment of her possessions.

The European Court of Human Rights observed that the applicant's property had been returned and that she had stated in a letter of 4 February 2003 that she intended to withdraw her application. There being no special circumstance requiring the continued examination of the case, the Court decided unanimously to strike it out of the list. (The judgment is available only in French.)

**(2) *M.M. v. the Netherlands*** (no. 39339/98) ***Violation Article 8***  
The applicant is a Netherlands national, born in 1953 and living in the Hague. He has been a practising lawyer since 1979.

In November 1993 the applicant was defending a man detained on remand. As such, he saw his client's wife, Mrs S, on several occasions. After one such occasion Mrs S told her husband that the applicant had made sexual advances to her. Her husband informed the police who in turn informed the public prosecutor, who decided that a criminal complaint should be lodged. Mrs S feared, however, that her word would be insufficient to secure a conviction. Following discussions between the police and the public prosecutor, police officers connected a tape recorder to Mrs S's telephone, showed her how to operate it and suggested that, should

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1. Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its Protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

the applicant call her, she steer her conversations with him towards his sexual advances in order to record him on the subject. Mrs S recorded three conversations with the applicant which were collected by the police, transcribed and added to the investigation case-file.

On 16 June 1995 the applicant was convicted of sexual assault and sentenced to four months' imprisonment, suspended for two years, and a fine of 10,000 Netherlands guilders. The recorded telephone conversations were not relied on as evidence. He unsuccessfully appealed to the Supreme Court.

The applicant alleged that the recording of his telephone conversations with Mrs S had breached Article 8 (right to respect for correspondence).

The Court found that there had been an interference by a public authority with the applicant's right to respect for his correspondence in that, with the prior permission of the public prosecutor, the police had made a crucial contribution to recording the telephone conversations and had thus engaged the respondent State's responsibility. At the relevant time the tapping or interception of telephone conversations for the purpose of obtaining evidence against a person suspected of committing an offence had required a preliminary judicial investigation and an order by an investigating judge. As neither condition had been met here the interference had not been in accordance with the law.

The Court held by six votes to one that there had been a violation of Article 8 of the Convention and awarded the applicant 10,000 euros (EUR) for costs and expenses. (The judgment is available only in English.)

**(3) *Mocie v. France*** (application no. 46096/99)

***Violation Article 6 § 1***

Richard Mocie is a French national, who was born in 1942 and lives at Villiers au Bouin. He has been receiving a military invalidity pension since 1963; the global rate of the pension was raised to 90% in 1991.

The applicant applied for a special major-disability allowance on 20 May 1988 and for a home-help allowance on 24 April 1990. He lodged various administrative applications in that connection. The special major-disability allowance was granted him, but has not yet been calculated and an appeal in respect of that allowance is pending in the Orleans Court of Appeal. He was refused a home-help allowance on 1 April 1998 by the Special Pensions Appeal Committee of the *Conseil d'Etat*.

The applicant complained under Article 6 § 1 (right to a fair trial within a reasonable time) of the length of the proceedings. He also raised several complaints relating to the unfairness of the proceedings before the Special Pensions Appeal Committee.

The proceedings for the grant of a special allowance had begun on 20 May 1988 and a final decision of the Court of Appeal had been delivered on that point, though apparently not fully executed. The proceedings had therefore lasted over 14 years to date. The second set of proceedings had begun on 24 April 1990 with the initial application for an allowance and had ended with the decision of the Special Pensions Appeal Committee of 1 April 1998. They had therefore lasted eight years.

The Court noted that in view of the applicant's lack of means and the deterioration in his health his claims for benefit were vital to him and the authorities should have been particularly diligent in dealing with them. In that connection, it found that there were grounds

on which the administrative and judicial authorities' conduct could be criticised and held, unanimously, that there had been of a violation of Article 6 § 1 in both sets of proceedings.

The Court declared inadmissible the complaints based on a breach of the right to a fair trial, and stated, among other things, that the monopoly enjoyed by members of the *Conseil d'Etat* and Court of Cassation Bar on making oral submissions in the Court of Cassation was compatible with Article 6 § 1 of the Convention.

As regards just satisfaction, the Court awarded the applicant EUR 10,000 for non-pecuniary damage and EUR 428.33 for costs and expenses. (The judgment is available only in French.)

#### **Section 4**

##### **(4) *Atkinson v. the United Kingdom* (no. 65334/01) *Friendly settlement***

The applicant, Peter George Atkinson, a British national, born in 1945 and living in Maidenhead, married in 1992 and had two children. His wife died in 1998.

On 23 July 2000 Mr Atkinson applied to the Benefits Agency for social-security benefits. He sought benefits equivalent to those to which a widow whose husband had died in similar circumstances to those of his wife would have been entitled, namely a Widow's Payment and a Widowed Mother's Allowance, followed by a Widow's Pension. He was informed that his claim was invalid because the regulations governing the payment of widows' benefits were specific to women, and that he had no right of appeal because his claim had not been considered.

On 9 April 2001 the Welfare Reform and Pensions Act 1999 came into force, making bereavement benefits available to both men and women.

Mr Atkinson complained that British social-security legislation had discriminated against him on grounds of sex, in breach of Article 14 (prohibition of discrimination), taken in conjunction with both Article 8 (right to respect for family life) and Article 1 of Protocol No. 1 (right of property).

The case has been struck out following a friendly settlement in which 10,488.12 pounds sterling is to be paid for any non-pecuniary and pecuniary damage, costs and expenses. (The judgment is available only in English.)

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These summaries by the Registry do not bind the Court. The full texts of the Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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*The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.*