

Press release issued by the Registrar

**GRAND CHAMBER JUDGMENT
MASLOV v. AUSTRIA**

The European Court of Human Rights has today delivered at a public hearing its Grand Chamber judgment¹ in the case of *Maslov v. Austria* (application no. 1638/03).

The Court held by 16 votes to one that there had been a **violation of Article 8** (right to respect for private and family life) of the European Convention on Human Rights.

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 3,000 euros (EUR) in respect of non-pecuniary damage and EUR 13,097.06 for costs and expenses. (The judgment is available in English and French.)

1. Principal facts

Juri Maslov is a Bulgarian national who was born in 1984. He arrived in Austria in 1990 at the age of six, spent the rest of his childhood and his adolescence there and speaks the language. He was a legal resident in Austria with his parents and brother and sister and obtained an unlimited settlement permit in March 1999. He is now living in Bulgaria.

The application concerned the 10-year exclusion order issued against Mr Maslov when he was 16 years old by the Vienna Federal Police Authority under section 36 of the 1997 Aliens Act. The measure became final when he reached his majority at the age of 18 and was still living with his parents.

The exclusion order was made following Mr Maslov's convictions by the Vienna Juvenile Court in September 1999 and then in May 2000 for offences committed when he was between 14 and 15 years old.

The applicant's first conviction resulted in an 18-month prison sentence, 13 months of which were suspended on probation, for a series of aggravated burglaries, extortion and assault. Mr Maslov was also instructed to start therapy for his drug addiction. The second conviction resulted in a 15-month prison sentence for a further series of aggravated burglaries. When determining the sentence the Juvenile Court considered the number of offences and Mr Maslov's rapid relapse into crime after his first conviction to be aggravating circumstances. As he had not undergone therapy for his drug addiction, the court revoked the suspension of the prison term imposed in respect of the first conviction.

Mr Maslov was released in May 2002, and ultimately deported to Bulgaria on 22 December 2003.

¹ Grand Chamber judgments are final (Article 44 of the Convention).

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 20 December 2002 and declared partly admissible on 2 June 2005. The Court delivered a Chamber judgment in the case on 22 March 2007. It held, by four votes to three, that there had been a violation of Article 8 of the Convention and that the respondent State was to pay the applicant EUR 5,759.96 for costs and expenses.

On 20 June 2007 the Government requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 24 September 2007 the panel of the Grand Chamber accepted that request. A hearing was held in public at the Human Rights Building in Strasbourg on 6 February 2008.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Jean-Paul **Costa** (French), *President*,
Nicolas **Bratza** (British),
Peer **Lorenzen** (Danish),
Françoise **Tulkens** (Belgian),
Josep **Casadevall** (Andorran),
Ireneu **Cabral Barreto** (Portuguese),
Karel **Jungwiert** (Czech)
Elisabeth **Steiner** (Austrian),
Alvina **Gyulumyan** (Armenian),
Ineta **Ziemele** (Latvian),
Isabelle **Berro-Lefèvre** (Monegasque),
Päivi **Hirvelä** (Finnish),
Giorgio **Malinverni** (Swiss),
András **Sajó** (Hungarian),
Mirjana **Lazarova Trajkovska** (citizen of “the former Yugoslav Republic of Macedonia”),
Ledi **Bianku** (Albanian),
Nona **Tsotsoria** (Georgian), *judges*,

and also Vincent **Berger**, *Jurisconsult*.

3. Summary of the judgment¹

Complaints

Mr Maslov relied on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, complaining of the exclusion order imposed on him and his subsequent deportation to Bulgaria.

Decision of the Court

Article 8

¹ This summary by the Registry does not bind the Court.

The Court considered that the imposition and enforcement of the exclusion order against the applicant had constituted an interference with his right to respect for his private and family life, that the interference had been in accordance with the law and that it had pursued the legitimate aim of preventing disorder or crime.

The Court held that the 10-year exclusion order had not been necessary in a democratic society, having regard to the fundamental principles laid down in its case-law.

In the Court's view, the decisive feature of the case was the young age at which the applicant had committed the offences (he had been a minor at the time) and, with one exception, their non-violent nature. The majority of the offences had concerned breaking into vending machines, cars, shops or restaurants and stealing cash and goods. The one violent offence had consisted in pushing, kicking and bruising another boy. The acts of which the applicant was found guilty were acts of juvenile delinquency.

The Court considered that, where expulsion measures against a juvenile offender were concerned, the obligation to take the best interests of the child into account included an obligation to facilitate his or her reintegration. Reintegration would not be achieved by severing family or social ties through expulsion, which must remain a means of last resort in the case of a juvenile offender. It saw little room for justifying the expulsion of a settled migrant on account of mostly non-violent offences committed when a minor.

After noting the length of time Mr Maslov had been legally resident in Austria, the Court examined his conduct from the time when he had committed his last offence up until he was actually deported. Of that period the applicant had spent two years and three and a half months in prison and had stayed a further one and a half years in Austria without reoffending. Knowing little about the applicant's conduct in prison – except that he had not benefited from early release – and not knowing to what extent his living circumstances had stabilised after his release, the Court considered that the time that had elapsed since the offences and the applicant's conduct during that period carried less weight as compared to the other applicable criteria, in particular the fact that the applicant had committed mostly non-violent offences when a minor.

The Court observed that the applicant had his main social, cultural, linguistic and family ties in Austria, where all his relatives lived, and noted that there were no proven ties with his country of origin.

Lastly, the limited duration of the exclusion order was not considered decisive in the present case. Having regard to the applicant's young age, a ten-year exclusion order banned him from living in Austria for almost as much time as he had spent there and for a decisive period of his life.

The Court found that the imposition of an exclusion order, even of a limited duration, was disproportionate to the legitimate aim pursued of preventing disorder or crime, and accordingly was contrary to Article 8.

Judge Steiner expressed a dissenting opinion, which is annexed to the judgment.

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 by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.