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Press release issued by the Registrar

Chamber judgment¹

[Paraskeva Todorova v. Bulgaria](#) (no. 37193/07)

**THE REFUSAL TO SUSPEND A SENTENCE ON ACCOUNT OF THE ACCUSED'S ROMA
ORIGIN WAS DISCRIMINATORY**

Unanimously:

***Violation of Article 14 (prohibition of discrimination) in conjunction with Article 6 § 1
(right to a fair trial)***

of the European Convention on Human Rights

Principal facts

The applicant, Paraskeva Todorova, is a Bulgarian national who was born in 1952 and lives in Trud (Plovdiv, Bulgaria). She belongs to the Roma minority.

In 2005 criminal proceedings were brought against the applicant for fraud. The prosecution recommended that the applicant be given a suspended sentence in view of several extenuating circumstances and her state of health. On 29 May 2006 the Plovdiv District Court sentenced the applicant to three years' imprisonment. The judgment mentioned her ethnic origin among the personal details used to identify her. As to the execution of her sentence, the court refused to suspend it, in particular on the ground that there was "an impression of impunity, especially among members of minority groups, who consider that a suspended sentence is not a sentence".

The applicant brought a complaint alleging discrimination before the higher courts, which did not respond to her allegations in that regard. On 16 October 2006 the Plovdiv Regional Court upheld the first-instance judgment, stating that it "subscribed fully" to the latter's conclusions regarding the refusal to suspend the sentence. On 5 June 2007 the Supreme Court of Cassation upheld the sentence and the refusal to suspend it.

¹ Under Article 43 of the Convention, 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.

Complaints, procedure and composition of the Court

Ms Todorova complained that she had been discriminated against on the ground of her membership of the Roma minority as a result of the reasons given for the domestic courts' refusal to suspend her prison sentence. She further maintained that the Bulgarian courts had not been impartial as they had taken account of her ethnic origin when determining her sentence. She relied in particular on Article 14 and Article 6 § 1 of the Convention.

The application was lodged with the European Court of Human Rights on 9 August 2007.

Judgment was given by a Chamber of seven judges, composed as follows:

Peer **Lorenzen** (Denmark), **President**,
Renate **Jaeger** (Germany),
Karel **Jungwiert** (Czech Republic),
Rait **Maruste** (Estonia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Zdravka **Kalaydjieva** (Bulgaria), **Judges**,

and Claudia **Westerdiek**, **Section Registrar**.

Decision of the Court

Allegedly discriminatory nature of the courts' reasons

The Court pointed to its case-law, according to which, where the reasoning of the domestic courts introduced a "difference in treatment" based solely on, for instance, ethnic origin², it was incumbent upon the respondent State to justify that difference in treatment. It would otherwise be held in breach of Articles 14 and 6 § 1.

In the case of Ms Todorova, the Court was of the view that she had indeed been subjected to a "difference in treatment". The first-instance judgment had made mention at the outset of her ethnic origin. The court's remark concerning the existence of an impression of impunity (which was directed at minority groups and hence at the applicant herself), taken together with her ethnic and cultural origin, had been liable to engender a sense that the court was seeking to impose a sentence that would serve as an example to the Roma community. The impression that there had been a "difference in treatment" to the detriment of the applicant was further reinforced by the district court's failure to reply to the prosecutor's argument concerning the applicant's health (on the basis of which he requested a suspended sentence) and the failure of the higher courts to respond to the allegations of discrimination.

Before the Court, the Bulgarian authorities had simply endeavoured to prove that they had not subjected the applicant to any "difference in treatment", without adducing any evidence that might justify the difference in treatment observed in this case. The Court was of the view that, in any event, that difference could not be justified on objective grounds. It stressed the seriousness of the situation complained of by the applicant given that, in the multicultural societies of present-day Europe, stamping out racism had become a priority goal for all the Contracting States. It further observed that the principle of equality of citizens before the law was enshrined in the Bulgarian Constitution and that the Code of Criminal Procedure required the courts to apply the criminal law uniformly in respect of all citizens. The Court

² Article 14: "... sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".

could not but observe that the reasons given by the courts in the present case appeared to be at variance with those principles.

The Court held that there had been a violation of Article 14 taken in conjunction with Article 6 § 1.

The impartiality of the domestic courts

In view of its finding of a violation, the Court considered that no separate issue arose concerning the impartiality of the domestic courts. There was therefore no need to examine this complaint separately.

Article 41 (just satisfaction)

The Court pointed out that, following its finding of a violation of the Convention, it was for the respondent State to adopt measures in order to place the applicant, as far as possible, in the position she would have been in had the violation not occurred. In Ms Todorova's case the most appropriate form of redress would be the reopening of the criminal proceedings. The Court noted that such a step appeared to be possible under the Bulgarian Code of Criminal Procedure.

The Court also awarded the applicant 5,000 euros (EUR) for non-pecuniary damage and EUR 2,218 for costs and expenses.

The judgment is available only in French. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its website (<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.