



Public prosecutor breached a clergyman's right to be presumed innocent by declaring him guilty in a decision discontinuing time-barred proceedings

In today's **Chamber** judgment¹ in the case of [Peltereau-Villeneuve v. Switzerland](#) (application no. 60101/09) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 § 2 (presumption of innocence) of the European Convention on Human Rights

The case concerned an alleged breach of the right to be presumed innocent on account of terms used by the public prosecutor in a discontinuance decision finding that criminal proceedings for sexual abuse were time-barred.

The Court was of the view that the terms used in that decision left no doubt as to the public prosecutor's opinion that Mr Peltereau-Villeneuve was guilty and it thus found that the reasoning of the decision, which had been made public and confirmed by the Swiss courts, had breached the applicant's right to be presumed innocent.

Principal facts

The applicant, Benoit Peltereau-Villeneuve, is a Swiss national who was born in 1958 and lives in Juvigny-En-Perthois (Switzerland).

In 2008 proceedings were opened by the Principal Public Prosecutor against Mr Peltereau-Villeneuve, a clergyman with the status of archpriest, on suspicion of sexual abuse. The police heard evidence from two alleged victims and from the applicant, who first confessed to the offence but later withdrew his statement.

In a decision of 25 September 2008 the Principal Public Prosecutor for the Canton of Geneva discontinued the proceedings. He stated that the applicant had committed, against at least two victims, the offence of exploitation of a person in a position of need or dependency, but that as the events dated back to 1991 and 1992 the prosecution was time-barred.

The decision was referred to in a press report, which stated that the applicant had committed the acts of which he had been charged and had confessed to them.

Mr Peltereau-Villeneuve unsuccessfully appealed to the Indictments Division in Geneva, requesting it to deliver a judicial decision of discontinuance or to refer the matter back to the Principal Public Prosecutor for a new decision which would simply state that the prosecution was time-barred.

In addition, canonical proceedings were conducted against Mr Peltereau-Villeneuve between January 2008 and December 2012, during which the terms of the 25 September 2008 decision were quoted several times. A penalty was imposed on the applicant requiring him to resign from the clergy but it was finally annulled by his congregation. In a decision of 13 March 2013, the

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Employment Tribunal ordered the Roman Catholic Church of Geneva to pay the applicant 1 Swiss franc in compensation for non-pecuniary damage.

Complaints, procedure and composition of the Court

Relying on Article 6 § 2 (presumption of innocence), Mr Peltureau-Villeneuve complained that the terms used by the Principal Public Prosecutor in a decision discontinuing the criminal proceedings against him, and the ensuing court decisions, had breached his right to be presumed innocent.

The application was lodged with the European Court of Human Rights on 22 October 2009.

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

Guido Raimondi (Italy), *President*,
Işıl Karakaş (Turkey),
Nebojša Vučinić (Montenegro),
Helen Keller (Switzerland),
Paul Lemmens (Belgium),
Egidijus Kūris (Lithuania),
Robert Spano (Iceland),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 6 § 2

The Court examined whether the outcome of the criminal proceedings had cast doubt on Mr Peltureau-Villeneuve's innocence even though he had not been found guilty.

The Court noted that, on the discontinuance of the criminal proceedings against the applicant, whilst it was necessary to characterise the alleged offences in order to determine the length of the potential sentences and thus to establish that prosecution was time-barred, the applicable provisions of domestic law did not oblige the Principal Public Prosecutor to declare that the charges had actually been made out.

In the Court's view, the terms used in the discontinuance decision left no doubt as to the Principal Public Prosecutor's opinion that Mr Peltureau-Villeneuve was guilty, whereas he could have chosen wording that would merely have shown the existence of suspicion.

In addition, the content of the 25 September 2008 decision had been reported in the press and had thus carried significant weight in the church procedure. While it might be considered that the public had an interest in being kept informed, such an interest did not mean that an opinion as to whether Mr Peltureau-Villeneuve was in fact guilty should have been expressed. There was no doubt that his reputation had been seriously affected by the fact that the discontinuance decision had been made public.

Accordingly, the Court found that the reasoning of the discontinuance decision of 25 September 2008, confirmed in substance by the Indictments Division and the Federal Court, had breached the applicant's right to be presumed innocent, in violation of Article 6 § 2 of the Convention.

Just satisfaction (Article 41)

The Court held that Switzerland was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 15,000 for costs and expenses.

The judgment is available only in French.

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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.