



Notary suspended for transfer of State property to a monastery: no violation of Convention

In today's **Chamber judgment**¹ in the case of [Peleki v. Greece](#) (application no. 69291/12) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights

The case concerned disciplinary proceedings against the applicant, a notary by profession, after she was instrumental in the conveyance of State property to a monastery.

The Court found that sufficiently thorough judicial scrutiny had been exercised by the Court of Appeal, which had remedied the alleged flaws in the proceedings before the notaries' disciplinary board at the Athens Court of First Instance. The applicant had been afforded an adversarial procedure and her right to be informed of the nature and cause of the accusations against her had not been breached. She had been given adequate time and facilities for the preparation of her defence. The fairness of the impugned proceedings could not therefore be called into question.

Principal facts

The applicant, Ms Ekaterini Peleki, is a Greek national who was born in 1965 and lives in Athens.

In May and December 2007, Ms Peleki, in her capacity as a notary, drafted two contracts between the Hellenic Real Estate Company and Vatopedi Monastery, providing for the exchange of part of Lake Vistonida, already owned by the monastery, for real estate belonging to the Greek State.

The contracts provided in particular that the monastery would acquire ownership of an area of 860.8 hectares located in Ouranoupoli in Halkidiki. In September 2008 newspaper articles suggested that the exchange had been arranged in the monastery's favour. Following an investigation, the Deputy Public Prosecutor at the Athens Court of First Instance brought disciplinary proceedings against Ms Peleki before the disciplinary board for notaries attached to the Athens Court of First Instance, accusing her of breaching the Notarial Code. On 19 February 2009 the Disciplinary Board issued its decision, concluding that the land in question could not be the subject of a conveyance and referring the case to the Athens Court of Appeal, which, in a five-judge formation, was asked to rule on the permanent disqualification of the applicant from practising as a notary.

In its judgment of 19 April 2011 the Court of Appeal found that the land in question was part of a protected site, classified as a historical monument. It stated that common property could not be the subject of any transaction or conveyance. The Court of Appeal found the applicant guilty of two offences: the conveyance of land classified as a historical monument without, in addition, excluding from the transaction two Byzantine historical monuments, which were also non-transferable; and the establishment of a limited liability company. It ordered the applicant to be temporarily disqualified from her duties for a period of four months for the first infringement and two months for the second.

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.

Ms Peleki appealed to the Court of Cassation, which set aside the judgment of the Court of Appeal in so far as it concerned the creation of a limited liability company, but dismissed the remainder of the appeal.

Complaints, procedure and composition of the Court

The applicant complained that the sanctions imposed on her had breached a number of provisions of Article 6 (right to a fair hearing).

The application was lodged with the European Court of Human Rights on 22 October 2012.

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

Ksenija **Turković** (Croatia), *President*,
Krzysztof **Wojtyczek** (Poland),
Linos-Alexandre **Sicilianos** (Greece),
Armen **Harutyunyan** (Armenia),
Pere **Pastor Vilanova** (Andorra),
Pauliine **Koskelo** (Finland),
Raffaele **Sabato** (Italy),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

[Article 6 § 1](#)

The Court acknowledged that Article 6 of the Convention was applicable under its civil head.

As regards the first-instance body, the Court first noted that in the minutes of the meeting of the notaries' disciplinary board there was no indication that the applicant's lawyers had asked to plead but had been denied this right. The Court pointed out that in any event, according to its settled case-law, where an administrative authority did not meet all the requirements of Article 6 § 1 there was no violation of the Convention if the proceedings were subsequently scrutinised by a judicial organ with full jurisdiction.

The Court noted that the Court of Appeal had examined witnesses and had adjourned the hearing to obtain further evidence. The applicant had been afforded the opportunity to present the arguments she had deemed pertinent to her defence. Those arguments had been examined in detail by the Court of Appeal, which had not been obliged to decline jurisdiction to respond to them or to verify the findings of fact or law established by the disciplinary board. Moreover, the Court noted that the applicant had not raised any complaint before it concerning the Court of Appeal proceedings.

The Court found that sufficiently thorough judicial scrutiny had been exercised by the Court of Appeal, which had remedied the alleged flaws in the proceedings before the notaries' disciplinary board attached to the Athens Court of First Instance.

As regards the reclassification of the offences of which the applicant had been accused, the Court noted that the domestic authorities had taken the view that the land in question was protected by Law no. 3028/2002 for two reasons. Firstly, the entire area had been classified as a historic monument by a ministerial decision of 1965 and, secondly, the area included two listed historic monuments, classified as such by ministerial decisions of 1981 and 1984. The Court found that the precise designation of the land in question was not clear and that the domestic authorities had used different terminology at each stage of the proceedings. Furthermore, the Court of Appeal had

adjourned its examination on the merits of the case in order to seek the opinion of the competent authority concerning the classification of the land.

In any event, the Court attached decisive importance to the proceedings before the Court of Appeal, which had carried out a comprehensive examination of the applicant's case, in terms of both procedural and substantive law. After examining the file from the first-instance body, which, moreover, had not issued a final decision, and the applicant's submissions, the Court of Appeal heard the observations of the defence lawyers at a public hearing. Assuming that the offence had been reclassified, the applicant had been afforded an opportunity to present her defence in that regard in the Court of Appeal. Moreover, no reclassification of the offences of which the applicant was accused had taken place before the Court of Appeal or the Court of Cassation.

Lastly, with regard to the proceedings in the Court of Cassation, the Court noted that the applicant had complained that the disciplinary board had not allowed her lawyers to plead after the prosecutor's submissions. In its judgment of 5 June 2012, the Court of Cassation had confined itself to stating that the applicant had not raised the argument alleging that her lawyers' request to speak before the disciplinary board had been refused and that this argument should therefore be rejected. In that connection, the Court observed that this conclusion was contradicted by the evidence of the ample development of that plea shown in the record of the hearing leading to the Court of Appeal judgment no. 8/2010.

Furthermore, the Court found that the same argument had been raised before it and that it had already concluded that the Court of Appeal had exercised sufficiently thorough judicial scrutiny, thus remedying the alleged flaws in the proceedings before the notaries' disciplinary board, including the alleged refusal of the chair of the board to allow the applicant's lawyers to plead.

The Court thus found that there had been no violation of Article 6 § 1.

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.