



Significant shortcomings in investigation of British holidaymaker's rape allegation in Greece

In today's **Chamber** judgment¹ in the case of [X v. Greece](#) (application no. 38588/21) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (lack of effective investigation) of the European Convention on Human Rights, and

a violation of Article 8 (right to respect for private and family life) of the European Convention.

The case concerned the applicant's allegations that the Greek authorities had not carried out an effective investigation into her accusation that she was raped by a hotel bartender in September 2019 when she was 18 years old and on holiday with her mother, and that the criminal proceedings had fallen short of the required standards. She claimed that the authorities had breached their duty to provide effective legal protection and to protect her as a victim of gender-based violence.

The Court, without expressing an opinion as to the guilt of the accused, found that the authorities had not given enough careful scrutiny to the case to have properly fulfilled their duties ("positive obligations") under the Convention.

Principal facts

The applicant, Ms X, is a British national who was born in 2000 and lives in Dewsbury (the United Kingdom). She alleges that she was raped by a hotel bartender in Greece on 27 September 2019 when she was 18 years old. She lodged a criminal complaint that same day.

She alleges that she was given no information about the medical examinations she then had to undergo and no explanation of the judicial procedure. No arrangements were made for her to be kept at a distance from the accused, who was taken to the same hospital clinic at the same time as her and who she had to personally identify at the police station. Blood samples were taken from her, and a physical examination conducted by a male doctor revealed bruising to her legs, thighs and genitals and a perforated hymen. She further alleges that the following day, the police took her to Preveza police station where she was told that she had to sign documents in Greek even though she was not provided with an official translation.

Criminal proceedings for rape were opened against the bartender. After giving his defence statement on 30 September 2019, he was released pending trial. The main investigation was closed on 9 September 2020, with the prosecutor finding that his assertion that Ms X had consented to the act of intercourse was well-founded, that there were no indications that he had committed rape and that charges should be dropped. The ensuing court decision of 2 October 2021 ruled that considering the witness statements, forensic report, documents and the accused's defence statement, there were insufficient indications to pursue the criminal charge. At the same time, it stated that costs should not be charged against Ms X as it had not been established that her complaint was entirely false, grossly negligent or distorted.

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 X. was provided with no information throughout. Following an unsuccessful attempt to obtain information on the case through the British embassy in Athens in November 2020, her representative was informed on 13 January 2021 that the embassy had received unconfirmed information that the accused had been acquitted.

On 25 January 2021, Ms X emailed the prosecutor's office herself, requesting all police and hospital records and information on the procedure to access them. A few days later she received the reply that she was not a civil party to the case as she had not declared that to be the case in her statement to the police and had not paid the relevant fee. Moreover, she had not appeared to testify before the investigating judge the day after the incident and had not appointed a lawyer to represent her. She was therefore unable to have access to the case file.

Complaints, procedure and composition of the Court

Relying on Article 3 (lack of effective investigation) and Article 8 (right to respect for private and family life) of the Convention, the applicant complained that the Greek authorities had failed to conduct an effective investigation into her allegations of rape. She also complained of shortcomings in the criminal proceedings, alleging that the authorities had breached their duty to provide effective legal protection and to protect her as a victim of gender-based violence.

The application was lodged with the European Court of Human Rights on 7 July 2021.

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

Pere **Pastor Vilanova** (Andorra), *President*,
Jolien **Schukking** (the Netherlands),
Yonko **Grozev** (Bulgaria),
Darian **Pavli** (Albania),
Ioannis **Ktistakis** (Greece),
Andreas **Zünd** (Switzerland),
Oddný Mjöll **Arnardóttir** (Iceland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Articles 3 and 8

The Court dismissed the Government's objection that the application had been lodged out of time, as Ms X had lodged her application less than six months after she had learnt that no charges were being brought against the bartender. The fact that she had not been informed earlier of the court decision could not be held against her. Similarly, the Court dismissed the Government's objection that, due to her not being a party in the criminal proceedings, Ms X. had not exhausted domestic remedies. It noted that, from the outset, she had not been notified of her right to receive information about the progression of the investigation and her role therein, and had been given no information in a language she could understand on the procedure and legal measures available to her, even though, in her statement to the police, she had explicitly stated that she wanted the accused to be prosecuted and punished.

Although the Court was satisfied that Greece had an adequate legal and regulatory framework to deal with the case, it found that the authorities had not applied it in practice as they had not carried out an effective investigation. The authorities should have been mindful of the alleged victim's rights and avoided secondary victimisation. The intimate nature of the subject matter, the applicant's young age and the fact that she claimed to have been raped while on holiday in a foreign country

called for a sensitive approach on the part of the authorities. The investigating authorities had not taken measures to prevent her from being traumatised further and had not taken her needs sufficiently into account. They had not informed her of her rights as a victim, such as her right to legal assistance, her right to receive information and to object to the interpretation. Furthermore, they had not taken adequate measures to mitigate what was clearly a distressing experience for her, such as her interactions with the police, the medical examination, and being brought face-to-face with the accused at the hospital and during the identification procedure.

Moreover, neither the prosecution nor the court had analysed the circumstances of the case from the perspective of gender-based violence. They had failed to establish all the circumstances and to take account of the particular psychological factors in alleged rape cases, and to make a context-sensitive assessment of the credibility of the various statements. There had been no serious attempt to clarify the discrepancies or to assess the applicant's state of mind. Those elements, in addition to the assessment of the forensic report, which did not actually contradict the applicant's version of events, were not isolated errors but significant shortcomings.

Therefore, the Court, without expressing an opinion as to the guilt of the accused, found that the failure of the investigative and judicial authorities to adequately respond to Ms X's allegations of rape showed that they had not given the case the careful scrutiny it required for them to properly fulfil their duties under the Convention. This was further supported by the [GREVIO Baseline Evaluation Report on Greece](#) issued in November 2023, in which concern was expressed about low conviction rates which suggested either that investigation procedures were ineffective or that an unreasonably high threshold required to reach a conviction was applied and that although the national law provided a comprehensive set of rights for victims of gender-based crime, most of the provisions were not fully implemented in practice, and the experience of the criminal justice system was still highly traumatic for many women and girl victims.

The Court therefore concluded that the failure of the investigative and judicial authorities to adequately respond to the allegation of rape in this case had amounted to a violation of the State's duties ("positive obligations") under Articles 3 and 8 of the Convention.

Just satisfaction (Article 41)

No just satisfaction was awarded, the claims having been lodged outside the time-limit.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Jane Swift (tel.: + 33 3 88 41 29 04)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

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.