



## Forthcoming Chamber judgment concerning the obligation on lawyers to declare their "suspicions" regarding possible illegal activities of their clients

The European Court of Human Rights will be delivering a Chamber judgment in the case of **Michaud v. France** (application no. 12323/11) at a public hearing in Strasbourg on **Thursday 6 December 2012 at 11.30 a.m.**

The case concerns the obligation on lawyers to report "suspicions" concerning clients' possible unlawful activities, as part of the European drive to combat money laundering.

### Principal facts and complaints

The applicant, Patrick Michaud, is a French national who was born in 1947 and lives in Paris (France). He is a member of the Paris Bar and of the Bar Council (Conseil de l'Ordre).

On 12 July 2007 the National Bar Council (Conseil national des barreaux) took a decision adopting a professional regulation designed to ensure implementation of various obligations on lawyers, particularly in relation to combating money laundering in accordance with European Directive no. 2005/60/EC.

This professional regulation imposes a duty of "constant vigilance" on lawyers and requires internal procedures to be put in place regarding, among other things, the steps to be taken where a particular operation appears to call for a "declaration of suspicion". A "declaration of suspicion" obliges lawyers in particular, in certain circumstances, to alert the "national financial intelligence unit" to sums of money that they suspect are the proceeds of a criminal offence such as money laundering.

On 10 October 2007 the applicant applied to the Conseil d'Etat to have that decision set aside. He argued, regarding the European Convention on Human Rights, that the term "suspicion" was vague and thus in breach of Article 7 (no punishment without law), and alleged a breach of professional secrecy and of the confidentiality of lawyer-client relations which, in his submission, attracted the protection of Article 8 (protection of private and family life).

The Conseil d'Etat dismissed his application by a judgment of 23 July 2010.

The applicant relies on Articles 6 (right to a fair hearing), 7 (no punishment without law) and 8 (protection of private and family life).

He argues, first, that the obligation on lawyers to declare their "suspicions" regarding possible illegal activities of their clients is incompatible with the latter's right not to incriminate themselves and with the presumption of innocence enshrined in Article 6.

Relying, next, on Article 7, the applicant submits that the vagueness of certain terms in the regulation, such as "declaration of suspicion", infringes the principle of legal certainty.

Lastly, the applicant considers that informing against people who have come to seek advice is incompatible with the principles of protection of lawyer-client relations and respect for professional confidentiality protected by Article 8.

## Procedure

The application was lodged with the European Court of Human Rights on 19 January 2011. On 8 December 2011, the Court communicated it to the French Government and requested the parties to submit their observations to the Court. A Chamber hearing was held on 2 October 2012 (see [webcast](#)).

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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.