



## Grand Chamber hearing concerning transsexual's inability to be recognised as a woman without changing marital status

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 16 October 2013 at 9.15 a.m.** in the case of **Hämäläinen v. Finland** (application no. 37359/09)

The case concerns the complaint of a male-to-female transsexual that she could only obtain full official recognition of her new gender by having her marriage turned into a civil partnership.

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

The applicant, Heli Hämäläinen, is a Finnish national who was born in 1963 and lives in Helsinki. Ms Hämäläinen was born a male and married a woman in 1996. The couple had a child in 2002. In September 2009 Ms Hämäläinen underwent male-to-female gender reassignment surgery.

Although she changed her first names in June 2006, she could not have her identity number changed to indicate her female gender in her official documents unless her wife consented to the marriage being turned into a civil partnership, which she refused to do, or unless the couple divorced. The couple preferred to remain married as a divorce would be against their religious convictions and they considered that a civil partnership did not provide the same security as marriage for them and their child. Ms Hämäläinen's request to be registered as female at the local registry office was therefore refused.

Ms Hämäläinen brought administrative proceedings before the national courts which, in May 2008 and February 2009, rejected her appeal against the refusal to register her as a female. The courts found in particular that legislation on confirming the gender of transsexuals in Finland did not intend to change the fact that only a man and a woman could currently marry under Finnish law. The Supreme Administrative Court refused her extraordinary appeal in August 2010.

Ms Hämäläinen complains that making the full recognition of her new gender conditional on the transformation of her marriage into a civil partnership violates her rights under Article 8 (right to respect for private and family life), Article 12 (right to marry) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights.

### Procedure

The application was lodged with the European Court of Human Rights on 8 July 2009.

In its Chamber judgment of 13 November 2012, the Court held that there had been no violation of Article 8 of the European Convention. It further held that there had been no violation of Article 14 read in conjunction with Article 8 and that there was no need to examine the case under Article 12. It found in particular that a fair balance had been struck in the Finnish judicial system between, on the one hand, Ms Hämäläinen's right to respect for her privacy by obtaining a new female identity number and, on the other hand, the State's interest in keeping intact the traditional institution of marriage. Notably, it was not disproportionate to require the applicant's marriage to be turned into a civil partnership as it was a

<sup>1</sup> Under Article 43 of the European Convention on Human Rights, 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.

real option which provided same-sex couples and their children with almost identical legal protection to that of married couples.

The case was referred to the Grand Chamber of the Court under Article 43 (referral to the Grand Chamber) on 29 April 2013 at the request of the applicant.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,  
Josep **Casadevall** (Andorra),  
Guido **Raimondi** (Italy),  
Ineta **Ziemele** (Latvia),  
Mark **Villiger** (Liechtenstein),  
Isabelle **Berro-Lefèvre** (Monaco),  
Khanlar **Hajiyev** (Azerbaijan)  
Danutė **Jočienė** (Lithuania),  
Päivi **Hirvelä** (Finland),  
András **Sajó** (Hungary),  
Linos-Alexandre **Sicilianos** (Greece),  
Erik **Møse** (Norway),  
Helen **Keller** (Switzerland),  
André **Potocki** (France),  
Paul **Lemmens** (Belgium),  
Valeriu **Grițco** (the Republic of Moldova),  
Faris **Vehabović** (Bosnia and Herzegovina), *judges*,  
Aleš **Pejchal** (Czech Republic),  
Elisabeth **Steiner** (Austria),  
Alvina **Gyulumyan** (Armenia), *substitute judges*,  
and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

## Representatives of the parties

### Government

Arto **Kosonen**, *Agent*,  
Salla **Silvola**, Maija **Faurie** and Katja **Fokin**, *Advisers*;

### Applicant

Constantin **Cojocariu** and Vesselina **Vandova**, *Counsel*.  
Heli **Hämäläinen**, *applicant*.

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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.