



## Judgment concerning criminal proceedings leading to the conviction of Amanda Knox for malicious accusation

The case concerned proceedings leading to the conviction of Amanda Knox for malicious accusation. During a police interview on 6 November 2007 Ms Knox accused a pub manager of killing her flatmate. The man was subsequently found to be innocent and she was sentenced to three years' imprisonment for making a malicious accusation.

In today's **Chamber** judgment<sup>1</sup> in the case of **Knox v. Italy** (application no. 76577/13) the European Court of Human Rights held, unanimously, that there had been:

**a violation of the procedural limb (investigation) of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights**

The Court held in particular that Ms Knox had not had the benefit of an investigation capable of shedding light on the facts and any responsibility, further to her allegation that she had been ill-treated on 6 November 2007 at a time when she had been entirely under police control. In spite of her repeated complaints, no investigation into the alleged treatment had been forthcoming.

**no violation of the substantive limb of Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention**

The Court found that it did not have any evidence to show that Ms Knox had been subjected to the inhuman or degrading treatment of which she had complained.

**a violation of Article 6 §§ 1 and 3 (c) (right to legal assistance)**

The Court took the view that the Italian Government had not succeeded in showing that the restriction of Ms Knox's access to a lawyer, at the police interview of 6 November 2007 at 5.45 a.m. – when there was a criminal charge against her – had not irreparably undermined the fairness of the proceedings as a whole.

**a violation of Article 6 §§ 1 and 3 (e) of the Convention (right to the assistance of an interpreter).**

The Court held that the authorities had failed to assess the conduct of the interpreter (who had seen herself as a mediator and had adopted a motherly attitude towards Ms Knox while the latter was formulating her statement), to examine whether her interpreting assistance had been consistent with the safeguards under Article 6 §§ 1 and 3 (e) of the Convention, or to consider whether that conduct had had an impact on the outcome of the criminal proceedings against Ms Knox. In the Court's view, that initial failure had thus had repercussions for other rights and had compromised the fairness of the proceedings as a whole.

### Principal facts

The applicant, Amanda Marie Knox, is an American national who was born in 1987 and lives in Seattle (United States of America). At the time of the events Ms Knox was 20 years old and had been

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](http://www.coe.int/t/dghl/monitoring/execution).

in Perugia (Italy) for about two months as part of her studies. She had found a temporary job in a pub run by D.L. She had been dating R.S., her boyfriend, for two weeks.

On 2 November 2007, at approximately 12.30 p.m., the police went to the applicant's flat and found Ms Knox there together with R.S., who had called the police to say that he had found a broken window and traces of blood in his girlfriend's flat. The police forced open the door of the bedroom of Ms Knox's flatmate (M.K., a British student on a university exchange) and discovered the body of the young woman, whose throat had been cut. There were indications of sexual assault.

On 6 November 2007 Ms Knox was interviewed twice (at 1.45 a.m. and 5.45 a.m.) and she accused D.L. of the offences. Then a few hours later she went back on her statement and wrote a text which she gave to the police. On the same day the public prosecutor ordered the arrest of Ms Knox, R.S. and D.L., charging them with sexual assault and murder. They were remanded in custody, but D.L. was released two weeks later after providing an alibi. In May 2008 Ms Knox was charged with making a malicious accusation against D.L.

On 5 December 2009 the Assize Court convicted Ms Knox and R.S. for involvement in sexual assault and murder. Ms Knox was also convicted for making a malicious accusation, as she had accused D.L. while being fully aware of his innocence. Ms Knox appealed. She alleged that a combination of psychological pressure, exhaustion and ignorance, both of the procedures and of her rights, had driven her to make a statement that was at odds with the reality. According to her, she had not been able to recall or to assess the facts.

On 3 October 2011 the Court of Appeal acquitted Ms Knox and R.S. on the more serious charges of involvement in sexual assault and murder, while upholding Ms Knox's conviction for malicious accusation. Having spent three years in custody, Ms Knox was released on the same day and left Italy for the United States. She also appealed on points of law. The Court of Cassation subsequently quashed the acquittal and referred the case back to the Assize Court of Appeal. That court sentenced Ms Knox to a prison term of twenty-eight years and six months for involvement in sexual assault and murder, and a further term of three years for malicious accusation. Ms Knox appealed on points of law. The Court of Cassation acquitted Ms Knox and R.S. on the charges of murder and sexual assault. It observed that the conviction for malicious accusation had already become final and pointed out that the sentence had been a prison term of three years.

Further criminal proceedings were brought against Ms Knox on another count of malicious accusation, this time for accusing the police officers who interviewed her, among others, of violence and threats against her. She was acquitted on that charge.

On 16 December 2010 the Court of Cassation concluded that R.G. (an acquaintance of M.K., the deceased flatmate) had been the perpetrator of the murder and sexual assault. He was sentenced to sixteen years' imprisonment in a final judgment.

## Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life), Ms Knox complained that she had sustained ill-treatment during the police interview of 6 November 2007. She claimed to have been slapped on the head twice, to have been subjected to extreme psychological pressure and to have been forced to speak at a point where she was incapable of showing discernment or willpower. The Court decided to examine all these complaints under Article 3.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair hearing / right to legal assistance), Ms Knox alleged that she had not been assisted by a lawyer during the interviews of 6 November 2007. She complained that the proceedings had been unfair.

Relying on Article 6 §§ 1 and 3 (a) (right to be informed promptly of the accusation), she submitted that she had not been informed promptly, in a language she understood, of the nature and cause of the accusations against her.

Relying on Article 6 §§ 1 and 3 (e) (right to the assistance of an interpreter), she complained that she had not been provided with a professional or independent interpreter during her police interviews of 6 November 2007 and that the police employee who assisted her had played a role of “mediator”, encouraging her to imagine hypothetical scenarios.

The application was lodged with the European Court of Human Rights on 24 November 2013.

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

Linos-Alexandre **Sicilianos** (Greece), *President*,  
Ksenija **Turković** (Croatia),  
Guido **Raimondi** (Italy),  
Ledi **Bianku** (Albania),  
Aleš **Pejchal** (the Czech Republic),  
Armen **Harutyunyan** (Armenia),  
Pauliine **Koskelo** (Finland),

and also Renata **Degener**, *Deputy Section Registrar*.

## Decision of the Court

[Article 3 \(prohibition of torture and inhuman or degrading treatment\) and 8 \(right to respect for private and family life\)](#)

### ***Procedural limb of the complaint (investigation)***

The Court noted that on 6 November 2007, a few hours after making incriminating statements about D.L., Ms Knox had clearly explained, in a text she wrote for the police, that she had been in an extreme state of shock and confusion. She stated that she had not been able to distinguish between what she thought was the reality – that on the night of the murder she had stayed at the home of R.S. – and another scenario, in which she saw D.L. as being responsible for the offence. She claimed that she had arrived at that scenario after being subjected by the police to pressure, threats of imprisonment, slaps on the head and shouting, in a general atmosphere of fear and anguish. Two days later, at a hearing, Ms Knox had immediately spoken of her extreme confusion, the unreliability of her statements and the impairing of her capacity for self-determination. Her confusion could also be seen from the two police reports containing the relevant statements. Ms Knox had mentioned that she found it difficult to recall the events and that the only thing which came back to her, albeit unclearly, was that D.L. had killed M.K. She had further explained that her thoughts were very confused and that she was not able to recall the sequence of events because she was in a state of shock. The Court observed that Ms Knox had thus merely submitted that, at the relevant time, she had “imagined” what might have happened and that she had met D.L.

The Court further observed that at the hearing of 17 December 2007, Ms Knox had stated that she had been deprived of sleep until she incriminated D.L. and she had also complained about the limited choice of food offered to her during the period in question. Moreover, the extreme emotional shock that she had sustained during the police interviews had been mentioned in her statement and in that of the interpreter of 13 March 2009. Ms Knox had alleged, in particular, that she had been treated aggressively and with contempt, and that she had been slapped, subsequently repeating her allegations in identical terms at the hearings of 12 and 13 June 2009, then constantly complaining about those conditions in her ordinary appeal and her appeals on points of law.

The Court further noted that the Court of Appeal, in its judgment of 3 October 2011, had emphasised the excessive duration of the police interviews, the vulnerability of Ms Knox and the psychological pressure she had sustained, thus hindering the spontaneity of her statements, together with her general state of oppression and stress. It concluded that the applicant had genuinely been subjected to a real degree of torment, placing her in an unbearable psychological situation from which she had sought to extract herself by incriminating D.L.

Lastly, the Court explained that it could not overlook the ambiguity of the role played by the interpreter, who had been acting more as a “mediator”, even though she was not required to go beyond her interpreting duties. It also noted that R.I., a police officer, had hugged Ms Knox, had stroked her hair and had held her hands in his own, thus clearly behaving inappropriately, especially when considering that, in that context, she had made accusations subsequently characterised as malicious which had resulted in her conviction. In the Court’s view, the above-mentioned conduct, which shed light on the general conditions in which Ms Knox had been interviewed, should have alerted the national authorities to the possibility that her dignity and capacity for self-determination had been impaired.

The Court therefore found that the facts complained of by Ms Knox, which supported an arguable allegation that she had sustained degrading treatment, at a time when she was entirely under police control, had attained the minimum threshold of severity to engage Article 3 of the Convention. The Court reiterated in this context that Article 3 of the Convention required in such a case that an official investigation be carried out in order to identify and punish anyone responsible. However, in spite of Ms Knox’s repeated complaints, the treatment complained of had not led to any investigation. In particular, her lawyer’s request of 13 March 2009 for the transmission of documents to the public prosecutor had remained unanswered, whilst following that hearing Ms Knox herself had been prosecuted for bringing a malicious accusation, this time against the authorities, whom she accused of being responsible for a breach of her rights under Article 3 of the Convention. Those other proceedings against Ms Knox had in fact led to her acquittal, as there was no evidence that her account of what had happened was inaccurate. The Court thus took the view that Ms Knox had not been given the benefit of an investigation capable of shedding light on the facts and the possible responsibilities in this connection. **Article 3 of the Convention, in its procedural aspect, had thus been breached.**

#### ***Substantive limb of the complaint (alleged ill-treatment)***

The Court found that there was insufficient evidence for it to conclude that Ms Knox had actually sustained the inhuman or degrading treatment of which she had complained. **There had thus been no violation of Article 3 of the Convention in its substantive aspect.**

#### **Article 6 §§ 1 and 3 (c) (right to legal assistance)**

On 6 November 2007 Ms Knox was interviewed at 5.45 a.m., without legal assistance, at a time when there was a criminal charge against her within the meaning of the Convention.

The Court reiterated that restrictions on access to a lawyer for compelling reasons were permitted in pre-trial proceedings only in exceptional circumstances. In the present case, the Government had not provided evidence of any such circumstances. The Court therefore had to apply very strict scrutiny in assessing the fairness of the proceedings. It found as follows:

First, Ms Knox had been particularly vulnerable, being a foreign young woman, 20 at the time, not having been in Italy for very long and not being fluent in Italian.

Secondly, only a few hours after the interviews in question, Ms Knox had promptly retracted her statements, in particular by a text that she had written on 6 November 2007 at about 1 p.m. and handed to the police, by another text written on 9 November 2007 for her lawyers and in a

telephone call to her mother on 10 November 2007 when her line was being tapped. In spite of all that, six months later, on 14 May 2008, Ms Knox was charged with making a malicious accusation.

Thirdly, it could be seen from the judgment of the Florence District Court of 14 January 2016 that Ms Knox's statements of 6 November 2007 had been taken in an atmosphere of intense psychological pressure.

Fourthly, the impugned statements of Ms Knox had constituted the offence with which she was charged and therefore the real evidence on the basis of which she had been found guilty of malicious accusation.

Fifthly, the circumstances in which the incriminating statements had been obtained had not been clarified in the context of an investigation.

Sixthly, it was not apparent from the file, and in particular from the record of Ms Knox's interview at 5.45 a.m., that she had been notified of her procedural rights.

Consequently, the Court held that the Italian Government had not succeeded in showing that the restriction of Ms Knox's access to a lawyer, at the police interview of 6 November 2007 at 5.45 a.m., had not irreparably undermined the fairness of the proceedings as a whole. **Article 6 §§ 1 and 3 (c) of the Convention had thus been breached.**

#### [Article 6 §§ 1 and 3 \(a\) \(right to be informed promptly of the accusation\)](#)

The Court took the view that Ms Knox had been duly informed of the accusations against her on 19 June 2008, through a notice of the conclusion of the preliminary investigations which had been sent to her in both Italian and English. **This complaint was therefore manifestly ill-founded.**

#### [Article 6 §§ 1 and 3 \(e\) \(right to the assistance of an interpreter\)](#)

The Court noted that the police interpreter (A.D.), by her own admission, had played a role that went beyond interpreting, at the point where Ms Knox, having been charged, was formulating her statement. A.D. had thus sought to build up a personal and emotional relationship with Ms Knox, seeing herself as a mediator and taking on a motherly attitude which was not called for in the circumstances. Even though Ms Knox had raised this complaint in the domestic courts, she had not had the benefit of a procedure by which her allegations could be examined. The authorities had failed to assess the conduct of A.D., to examine whether her interpreting assistance had been consistent with the safeguards under Article 6 §§ 1 and 3 (e) of the Convention, or to consider whether that conduct had had an impact on the outcome of the criminal proceedings against Ms Knox. In addition, there had been no mention in the relevant police record of the exchanges between Ms Knox and A.D. during the interview of 6 November 2007. In the Court's view, that initial failure had thus had repercussions for other rights, which were separate but closely related to the right at issue, and had compromised the fairness of the proceedings as a whole. There had thus been **a violation of Article 6 §§ 1 and 3 (e) of the Convention.**

#### [Article 41 \(just satisfaction\)](#)

The Court held that Italy was to pay Ms Knox 10,400 euros (EUR) in respect of non-pecuniary damage and EUR 8,000 for costs and expenses.

*The judgment is available only in French.*

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