



## Grand Chamber hearing concerning the criminal conviction of a whistle-blower in the “Luxleaks” case

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 2 February 2022 at 9.15 a.m.** in the case of **Halet v. Luxembourg** (application no. 21884/18).

The case concerns Mr Halet’s criminal conviction and the imposition of a fine in the “Luxleaks” case for disclosing tax documents relating to certain of his employer’s clients.

*A recording of the hearing will be available this afternoon 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.*

### Principal facts

The applicant, Raphaël Halet, is a French national who was born in 1976 and lives in Viviers (France).

At the relevant time Mr Halet worked for the firm PricewaterhouseCoopers (PwC), which provides auditing, tax advice and business management services. Its activities include preparing tax returns on behalf of its clients and requesting advance tax rulings from the tax authorities. These rulings, also known as “advance tax agreements”, “tax rulings” or “tax rescripts” concern the application of tax legislation to future transactions.

Between 2012 and 2014 several hundred advance tax rulings and tax returns prepared by PwC were published by various media outlets. The documents published highlighted a practice, spanning a period from 2002 to 2012, of highly advantageous tax agreements between PwC, acting on behalf of multinational companies, and the Luxembourg tax authorities.

An in-house investigation by PwC established that in 2010, just before he left the firm following his resignation, an auditor, A.D., had copied 45,000 pages of confidential documents, including 20,000 pages of tax documents corresponding to 538 advance tax rulings. In the summer of 2011 he passed them on to a journalist, E.P., at the latter’s request.

A second in-house investigation by PwC revealed that in May 2012, following media revelations about some of the advance tax rulings copied by A.D., Mr Halet had contacted E.P. and offered to hand over further documents. Sixteen documents (fourteen tax returns and two accompanying letters) were handed over between October and December 2012. Some of them were used by E.P. in a television programme entitled “Cash Investigation”, which was broadcast in June 2013. In November 2014 the documents were also posted online by an association of journalists known as the International Consortium of Investigative Journalists.

Following a complaint by PwC, criminal proceedings were instituted, which resulted in the acquittal of A.D. and E.P. Mr Halet, however, was sentenced on appeal to a criminal fine of 1,000 euros and was ordered to pay a symbolic sum of 1 euro to PwC in compensation for non-pecuniary damage. In

<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.

its judgment the Court of Appeal found, in particular, that the disclosure of documents subject to professional secrecy had caused the applicant's employer harm that outweighed the general interest. Mr Halet lodged an appeal on points of law, which was dismissed in January 2018.

## Complaints

Relying on Article 10 (freedom of expression) of the European Court of Human Rights, Mr Halet alleged that his conviction following the disclosure to a journalist of 16 documents emanating from his employer, PwC, amounted to a disproportionate interference with his right to freedom of expression. Having been sentenced on appeal to pay a criminal fine of 1,000 euros and ordered to pay a symbolic sum of 1 euro to PwC in compensation for non-pecuniary damage, Mr Halet considered that there had been a disproportionate interference with his right to freedom of expression.

## Procedure

The application was lodged with the European Court of Human Rights on 7 May 2018.

In its [judgment](#) of 11 May 2021, the Court held by a majority (five votes to two) that there had been no violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

On 18 June 2021 the applicant requested that the case be referred to the Grand Chamber. On 6 September 2021 a Grand Chamber panel of five judges decided to refer the case to the Grand Chamber.

The following non-governmental organisations were granted leave to intervene in the written proceedings as third parties: Maison des lanceurs d'alerte, Whistleblower Netzwerk E.V., Media Defence, Article 19 and Whistleblowing International Network (acting also on behalf of Transparency International, the European Federation of Journalists, the Tax Justice Network and Blueprint for Free Speech).

## Composition of the Court

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

Robert **Spano** (Iceland), *President*,  
Jon Fridrik **Kjølbro** (Denmark),  
Síofra **O'Leary** (Ireland),  
Yonko **Grozev** (Bulgaria),  
Georges **Ravarani** (Luxembourg),  
Faris **Vehabović** (Bosnia and Herzegovina),  
Mārtiņš **Mits** (Latvia),  
Pauliine **Koskelo** (Finland),  
Tim **Eicke** (the United Kingdom),  
Péter **Paczolay** (Hungary),  
Lado **Chanturia** (Georgia),  
Ivana **Jelić** (Montenegro),  
Arnfinn **Bårdsen** (Norway),  
Raffaele **Sabato** (Italy),  
Mattias **Guyomar** (France),  
Ioannis **Ktistakis** (Greece),  
Andreas **Zünd** (Switzerland), *judges*,  
Stéphanie **Mourou-Vikström** (Monaco),  
Jolien **Schukking** (the Netherlands), *substitute judges*,

and also Abel Campos, *Deputy Registrar*.

## Representatives of the parties

### Government

Marc Thewes and Hicham Rassafi-Guibal, *Counsel*,  
Amal Jaouid, *Adviser*;

### Applicant

Christophe Meyer, *Counsel*,  
Peggy Ducoulombier, *Adviser*.

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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.