



The domestic judge did not rule speedily in giving his decision 35 days after an application for release

In today's **Chamber** judgment¹ in the case of **Pouliou v. Greece** (application no. 39726/10) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 5 § 4 (right to speedy review of the lawfulness of detention) of the European Convention on Human Rights.

The case concerned the placement in pre-trial detention of Ms Pouliou, a lawyer by profession, on suspicion of membership of a criminal organisation implicated in a series of crimes committed in 2008 and 2009.

The Court found in particular that the length of time – 35 days – that had elapsed between Ms Pouliou's application for release on bail and the investigating judge's refusal was incompatible with the requirement of speedy review under Article 5 § 4 of the Convention.

The Court further found that Ms Pouliou's complaint in relation to Article 5 § 3 of the Convention (right to liberty and security) was manifestly ill-founded. It considered that the period of detention, which had been less than six months, was not incompatible with the requirement of promptness under that provision. The reasons given by the investigating judge on 9 December 2009 for Ms Pouliou's continued detention had been relevant and sufficient in view of the substantial evidence pointing to her guilt and that of the other members of the criminal organisation, and given the complexity of the case. They had ceased to be so by 15 January 2010, a fact that the Indictment Division had taken into account in ordering the applicant's release.

Principal facts

The applicant, Elissavet Pouliou, is a Greek national who was born in 1969 and lives in Athens.

On 22 July 2009 Ms Pouliou was placed in pre-trial detention on suspicion of membership of a criminal organisation implicated in several crimes, including the abduction of a businessman, intentional homicide and preparation of a murder. The suspicions regarding the applicant were based on recordings of her telephone conversations with one of her clients who was in prison. Ms Pouliou did not make use of the remedy provided for by Article 285 § 1 of the Code of Criminal Procedure in order to challenge the order for her detention.

On 3 November 2009 Ms Pouliou lodged an application for release on bail with the investigating judge at the Athens Criminal Court, who rejected the application on 9 December 2009. In the judge's view, it was clear from Ms Pouliou's telephone conversations with one of her clients – the likely head of the organisation – that two of the accused, members of the criminal organisation in question, had decided to murder three individuals in a courtroom and had asked Ms Pouliou to provide them with information about the courtroom, the people who would be present and the location of the exits from the building. The head of the organisation had also reportedly asked her to procure detonators and to take mobile phones into the prison.

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.

On 14 December 2009 Ms Pouliou appealed against the decision to the Indictment Division of the Criminal Court, and was released on bail on 15 January 2010.

Complaints, procedure and composition of the Court

Relying on Article 5 § 3 (right to liberty and security), Ms Pouliou alleged that she had been detained arbitrarily, arguing that the investigating judge had not given reasons for rejecting her application for release on 9 December 2009.

Under Article 5 § 4 (right to speedy review of the lawfulness of detention), she complained that her applications for release had not been examined speedily.

The application was lodged with the European Court of Human Rights on 12 July 2010.

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

Kristina **Pardalos** (San Marino), *President*,
Linos-Alexandre **Sicilianos** (Greece),
Aleš **Pejchal** (the Czech Republic),
Krzysztof **Wojtyczek** (Poland),
Armen **Harutyunyan** (Armenia),
Tim **Eicke** (the United Kingdom),
Jovan **Ilievski** ('the former Yugoslav Republic of Macedonia'),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

[Article 5 § 3 \(right to liberty and security\)](#)

The Court noted firstly that Ms Pouliou had not made use, within the five-day time-limit, of the remedy referred to in Article 285 § 1 in order to contest the lawfulness of the order for her pre-trial detention dated 22 July 2009. Secondly, it observed that on 9 December 2009, when the investigating judge had rejected Ms Pouliou's application for release of 3 November 2009, the investigation had not yet been completed and the six-month period beyond which an extension of detention was possible had not yet elapsed. Under Article 287 § 1 of the Code of Criminal Procedure, pre-trial detention could be ordered for up to six months, after which time the Indictment Division had to give a reasoned decision as to whether the accused should be released or continue to be detained. Furthermore, in its decision of 15 January 2010 the Indictment Division had examined the criteria capable of justifying the applicant's continued detention and had decided that those criteria were no longer met.

Accordingly, the Court considered that the reasons cited by the investigating judge in ordering Ms Pouliou's continued detention had been relevant and sufficient on 9 December 2009, in view of the substantial evidence of the applicant's guilt and that of the other members of the criminal organisation and given the complexity of the case. They had ceased to be so by 15 January 2010, a fact that the Indictment Division had taken into account in ordering the applicant's release. Lastly, the Court found that the period of detention, which had been less than six months, could not be regarded as incompatible with the requirement of promptness under Article 5 § 3 of the Convention.

This part of the application was therefore manifestly ill-founded (Article 35 §§ 3 (a) and 4 of the Convention).

Article 5 § 4 (right to speedy review of the lawfulness of detention)

The Court noted that Ms Pouliou had submitted an application for release on bail on 3 November 2009 and that the investigating judge had rejected it 35 days later, on 9 December 2009. It found that the period of time that had elapsed was incompatible with the requirement of speedy review under Article 5 § 4 of the Convention. There had therefore been a violation of that provision.

Article 41 (just satisfaction)

The Court held that Greece was to pay Ms Pouliou 3,300 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in French.

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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.