



## Remarks by two public figures breached the right to be presumed innocent of a minister charged with embezzlement

In today's Chamber judgment<sup>1</sup> in the case of **Maslarova v. Bulgaria** (application no. 26966/10) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 6 § 2 (presumption of innocence) of the European Convention on Human Rights, and a violation of Article 13 (right to an effective remedy).**

The case concerned a complaint lodged by Ms Maslarova, who was Minister for Labour and Employment Policy from 2005 to 2009, about a failure to respect her right to be presumed innocent on account of remarks made by certain political and judicial figures, and relayed in the press, in relation to criminal proceedings against her for embezzlement of public funds.

The Court found in particular that remarks made by the spokesperson for the Prosecutor General's office – during a press conference about the proceedings in question – and those of a Member of Parliament who was also deputy chair of the *ad hoc* parliamentary commission of inquiry into the expenditure of the previous government, had breached Ms Maslarova's right to be presumed innocent as they had gone beyond the mere conveying of information.

The Court also found that no effective domestic remedy had been available to Ms Maslarova.

The Court dismissed the complaints about comments attributed to the Prime Minister and about a request for the suspending of parliamentary immunity sent by the Prosecutor General to the National Assembly through official channels, finding that they were manifestly ill-founded.

### Principal facts

The applicant, Emilia Maslarova, is a Bulgarian national who was born in 1949 and lives in Sofia.

In August 2008 members of an association lodged a complaint with the public prosecutor's office concerning irregularities in connection with the renovation of a former medical centre. The following year, the public prosecutor's office initiated criminal proceedings against persons unknown for misuse of power and embezzlement of public funds, and three months later the public prosecutor asked the National Assembly to suspend Ms Maslarova's immunity from prosecution so that she could be formally charged. The next day Ms Maslarova herself agreed to the criminal proceedings against her. On the same day information was circulated in the press and a number of reports were broadcast on the subject. In particular, the spokesperson for the Prosecutor General's office held a press conference on the criminal proceedings, and his comments were taken up by several media outlets and reported in a national radio broadcast.

In February 2010 Ms Maslarova was charged with embezzling public funds. She was accused of embezzling a total of some 5,643,847.13 euros (EUR) for herself and two presumed accomplices. The next day the *24 Hours* newspaper published an article in which the Prime Minister was reported to have said that he was convinced that the charges against Ms Maslarova would be made out because

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).

things were clear. The following month the *Politika* newspaper published an interview with a member of the National Assembly, who was deputy chair of the *ad hoc* parliamentary commission of inquiry into the previous Government's expenditure. The article pointed out that that MP had said, *inter alia*, that this was a typical example of corruption and failure to comply with the law on public procurement contracts committed by a senior member of the executive, that is to say the Minister in question. The criminal proceedings were still pending in March 2018.

## Complaints, procedure and composition of the Court

Relying on Article 6 § 2 (presumption of innocence) and Article 13 (right to an effective remedy), Ms Maslarova alleged that the Prosecutor General, the spokesperson of the Prosecutor General's Office, the Prime Minister and the aforementioned MP had infringed her right to be presumed innocent and that there had been no effective domestic remedy available to her for the purpose of submitting her complaint.

The application was lodged with the European Court of Human Rights on 22 April 2010.

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

Angelika **Nußberger** (Germany), *President*,  
Yonko **Grozev** (Bulgaria),  
Síofra **O'Leary** (Ireland),  
Mārtiņš **Mits** (Latvia),  
Gabriele **Kucsko-Stadlmayer** (Austria),  
Lətif **Hüseynov** (Azerbaijan),  
Lado **Chanturia** (Georgia),

and also Claudia **Westerdiek**, *Section Registrar*.

## Decision of the Court

### [Article 6 § 2 \(presumption of innocence\)](#)

#### ***Complaints about the Prosecutor General's request and the Prime Minister's remarks***

As regards the Prosecutor General's request of 5 November 2009, it sought to obtain the suspension of Ms Maslarova's immunity by a decision of Parliament in order to allow the opening of criminal proceedings. It had been sent to the National Assembly by official channels and not to the general public through the media. It had been drafted in such a way as to present all necessary information for the members of parliament to decide whether or not to suspend Ms Maslarova's immunity. Consequently, the Court took the view that the Prosecutor General's request reflected the existence of suspicion with regard to Ms Maslarova and that it had not breached her right to be presumed innocent. **This complaint was thus manifestly ill-founded.**

As to the Prime Minister's remarks, Ms Maslarova referred to an article published in the daily newspaper *24 Hours* about the criminal proceedings against her. The Court noted that the sentence complained of had been written in the form of reported speech and thus reflected the interpretation by the author of the article of the remarks attributed to the Prime Minister. Consequently, the Court took the view that it was not established that the remarks attributed by the author to the Prime Minister had actually been expressed by him. **This complaint was thus manifestly ill-founded.**

#### ***Complaints about statements by the Prosecutor General's office and an MP***

As to the remarks by the Prosecutor General's spokesperson, they had been expressed during a special press conference on the subject of the criminal proceedings against Ms Maslarova, which

took place the day after the request for the suspension of her immunity and the very day on which she had agreed to be prosecuted, at a time when the public was showing great interest in the case. The Court thus took the view that, in the circumstances and taking into account his position as the Prosecutor General's spokesperson, he had been required to take the necessary precautions to avoid any confusion as to the meaning of his remarks about the criminal proceedings. However, the spokesperson's remarks had gone beyond mere information because they unequivocally indicated that Ms Maslarova had been responsible for the embezzlement of public funds, which consisted in the awarding of public procurement contracts to the firm of one of her friends.

As regards the MP, he was a member of the National Assembly and deputy chair of the *ad hoc* parliamentary commission of inquiry into the expenditure of the previous government, in which Ms Maslarova had been the Labour and Employment Policy Minister. In an interview published on 26 March 2010 and devoted to the work of the *ad hoc* commission, the MP referred to the criminal proceedings pending against Ms Maslarova, mentioning her name and her status as minister, and also describing the charges as a particularly striking example of a breach of the legislation on public procurement and corruption. The Court acknowledged that the MP had given the interview in his capacity as deputy chair of that commission, and that he had been seeking to clarify his commission's role and to highlight the public procurement contracts that he considered to be affected by significant irregularities. The Court, however, took the view that his remarks had gone beyond the mere conveying of information and that they could be interpreted by the general public as a categorical assertion by a high-ranking State official as to Ms Maslarova's guilt in the context of the criminal proceedings for embezzlement.

Consequently, the Court found that the remarks by the Prosecutor General's spokesperson and by the MP had breached Ms Maslarova right to be presumed innocent. **There had thus been a violation of Article 6 § 2 of the Convention on that account.**

#### [Article 13 \(right to an effective remedy\)](#)

Following its examination of admissibility, the Court found that none of the remedies suggested by the Government could have constituted a domestic remedy that was sufficiently effective in the present case. The Court thus found that the Bulgarian Government had not succeeded in challenging Ms Maslarova's argument that no domestic remedies had been available to her for the purpose of asserting her right to be presumed innocent. **There had thus been a violation of Article 13 taken together with Article 6 § 2 of the Convention.**

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

The Court held that Bulgaria was to pay the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 in costs and expenses.

*The judgment is available only in French.*

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