

Press release issued by the Registrar

Chamber judgment¹

[Syngelidis v. Greece](#) (application no. 24895/07)

**PARLIAMENT'S REFUSAL TO WAIVE MP'S IMMUNITY IN CHILD CUSTODY CASE
UNJUSTIFIED**

***Violation of Article 6 § 1 (right of access to a court)
of the European Convention on Human Rights***

Principal facts

The applicant, Polychronis Syngelidis, is a Greek national who was born in 1957 and lives in Athens. He was married to M.A., a Member of the Greek Parliament. After their marriage broke down in late 2004, the applicant and M.A. concluded an agreement on custody and access in relation to their son, born in the same year. The arrangements were endorsed by a court decision in January 2005. The child was to live with his mother and the applicant was entitled to open access and minimum periods and certain days of contact with his son. Two months later, M.A. brought criminal proceedings against the applicant for placing a security guard outside her building. These proceedings were dismissed both at first instance and on appeal.

As the applicant had been unable to have contact with his son in accordance with the court's decision on a number of occasions, he lodged criminal proceedings against M.A. in October 2005, requesting the sum of ten euros (EUR) as compensation for the non-pecuniary damage which her breach of the decision had caused him. The Supreme Court's prosecutor eventually referred the matter to the President of the Greek Parliament, seeking to have M.A.'s immunity lifted. In November 2006, the Parliament's Ethics Committee gave the opinion that the request should be denied, stating that one of the grounds provided by the relevant provision of the Parliament's regulations applied, without further specifying. In December 2006 a majority of Parliament refused to lift the immunity, without giving any reasons. In 2007 the applicant lodged two more indictments against M.A. following alleged breaches of a new court decision on custody arrangements, which provided for payment of a fine, should she breach any of its provisions. A request for M.A.'s immunity to be lifted was again referred to the Parliament's Ethics Committee, which rejected it in May 2008 on the grounds that it was essentially the same as the first request.

¹ Under Article 43 of the Convention, 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.

Complaints, procedure and composition of the Court

The applicant complained, relying in particular on Article 6 § 1, that the Greek Parliament's refusal to waive his former wife's parliamentary immunity had breached his right of access to a court.

The application was lodged with the European Court of Human Rights on 1 June 2007.

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

Nina Vajić (Croatia), **President**,
Anatoly Kovler (Russian Federation),
Khanlar Hajiyev (Azerbaijan),
Dean Spielmann (Luxembourg),
Giorgio Malinverni (Switzerland),
George Nicolaou (Cyprus), **judges**,
Spyridon Flogaitis (Greece), **ad hoc judge**,

and also Søren Nielsen, **Section Registrar**.

Decision of the Court

First, the Court disagreed with the argument, brought forward by the Greek Government, that there could not have been a breach of the applicant's right of access to a court, given that there were other legal remedies available than lodging a criminal indictment against his former wife seeking compensation for her allegedly illegal behaviour. The Court reiterated that when the domestic legal order provided an individual with a remedy, the State had a duty to ensure that the person using it enjoyed the fundamental guarantees of Article 6.

The Court further noted that in the light of that Article, the Greek Constitution entitled Parliament to refuse lifting immunity for a prosecution only where the acts on which prosecution was based were clearly connected with parliamentary activity. In the present case, there had been no conceivable link between M.A.'s alleged failure to comply with the custody arrangements with her former husband ordered by the domestic court and her functions as a Member of Parliament. Moreover, the Parliament's Ethics Committee had not specified which of the conditions for a refusal to waive immunity, as provided for by the Parliament's regulations, was met. The absence of any argument showing the reasoning of the Committee made it impossible for the applicant to learn about the basis of the decision. The Court further attached some significance to the fact that the impugned approach of the Parliament had created an imbalance in treatment between the applicant and M.A., since the latter was able to bring criminal proceedings against the applicant.

The Court therefore concluded, by six votes to one, that the applicant's right under Article 6 § 1 had been violated.

Under Article 41 (just satisfaction) of the Convention, the Court, by five votes to two, awarded the applicant EUR 12,000 in respect of non-pecuniary damage.

The judgment is available only in English. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its website (<http://www.echr.coe.int>).

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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.*