



The inability of Greeks living abroad to vote in parliamentary elections from their place of residence did not breach their human rights

In today's Grand Chamber judgment in the case [Sitaropoulos and Giakoumopoulos v. Greece](#) (application no. 42202/07), which is final¹, the European Court of Human Rights held, unanimously, that there had been:

No violation of Article 3 of Protocol No. 1 (right to free elections) to the European Convention on Human Rights.

The case concerned Greek nationals living in France who complained of their inability to vote in Greek elections from their country of residence.

The Court notably found that neither the relevant international and regional law nor the varying practices of the member States in this sphere revealed any obligation or consensus which would require States to make arrangements for the exercise of voting rights by citizens living abroad.

Principal facts

The applicants, Nikolaos Sitaropoulos and Christos Giakoumopoulos, are Greek nationals who were born in 1967 and 1958 respectively and live in Strasbourg (France). They are European civil servants.

On 10 September 2007 the applicants expressed their wish to vote from their country of residence in the parliamentary elections to be held in Greece on 16 September 2007. Their request was turned down by the Greek Ambassador in France on the ground that no rules existed laying down practical arrangements for the exercise of voting rights by Greek voters who were outside the country.

Complaints, procedure and composition of the Court

Relying on Article 3 of Protocol No. 1 (right to free elections) to the Convention, the applicants alleged that the inability of Greek expatriates to vote from their place of residence amounted to disproportionate interference with the exercise of their voting rights.

The application was lodged with the European Court of Human Rights on 20 September 2007.

On 8 July 2010 the Court, sitting as a Chamber, held that there had been a violation of Article 3 of Protocol No. 1, taking the view that the absence of measures to give practical effect to expatriates' voting rights was likely to amount to unfair treatment of Greeks living abroad.

¹ Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

On 5 October 2010 the Government requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber). On 22 November 2010 a panel of the Grand Chamber accepted that request. A hearing was held in public in the Human Rights Building, Strasbourg, on 4 May 2011.

Judgment was given by the Grand Chamber of 17, composed as follows:

Nicolas **Bratza** (the United Kingdom), *President*,
 Jean-Paul **Costa** (France),
 Françoise **Tulkens** (Belgium),
 Josep **Casadevall** (Andorra),
 Lech **Garlicki** (Poland),
 Boštjan M. **Zupančič** (Slovenia),
 Egbert **Myjer** (the Netherlands),
 David Thór **Björgvinsson** (Iceland),
 Ján **Šikuta** (Slovakia),
 Ineta **Ziemele** (Latvia),
 Luis **López Guerra** (Spain),
 Nona **Tsotsoria** (Georgia),
 Ann **Power-Forde** (Ireland),
 Zdravka **Kalaydjieva** (Bulgaria),
 Vincent A. **de Gaetano** (Malta),
 Angelika **Nußberger** (Germany), *judges*,
 Spyridon **Flogaitis** (Greece), *ad hoc Judge*,

and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

Decision of the Court

Article 3 of Protocol No. 1

In its Chamber judgment of 8 July 2010 the Court had held that the absence of measures to give effect to expatriates' voting rights, despite the fact that the Greek Constitution had, for 35 years, made provision for practical arrangements to be put in place enabling expatriates to vote, was likely to constitute unfair treatment of Greek citizens living abroad.

The Court pointed out that Article 3 of Protocol No. 1 not only imposed an obligation on the High Contracting Parties to hold elections under conditions which ensured the free expression of the opinion of the people, but also implied individual rights including the right to vote.

The Court's task was therefore to satisfy itself that the conditions to which the right to vote was made subject did not curtail that right to such an extent as to impair its very essence and deprive it of its effectiveness.

The case concerned the applicants' complaint that the Greek legislature had not made the necessary arrangements enabling Greek citizens living abroad to vote in parliamentary elections from their place of residence. Hence, the complaint did not relate to the recognition of expatriates' right to vote as such, but rather to the conditions governing the exercise of that right. The question was therefore whether Article 3 of Protocol No. 1 placed States under an obligation to introduce a system enabling expatriate citizens to exercise their voting rights from abroad.

In order to do this, the Court interpreted the provisions of Article 3 of Protocol No. 1 in the light of the relevant international instruments, the practices of the Council of Europe member States and the provisions of Greek domestic law.

The Court noted that neither the relevant international and regional law nor the varying practices of the member States in this sphere revealed any obligation or consensus which would require States to make arrangements for the exercise of voting rights by citizens living abroad. While the Council of Europe had invited member States to enable their citizens living abroad to participate to the fullest extent possible in the electoral process, the Venice Commission had taken the view that facilitating the exercise of the right in question was desirable but not mandatory for States.

The Court observed that, while the great majority of Council of Europe member States allowed their citizens to vote from abroad, some did not. Furthermore, in those member States that did allow voting from abroad, the practical arrangements took a variety of forms.

The Court also noted that, although the Greek Constitution contained a provision encouraging the legislature to arrange for the exercise of expatriates' voting rights, it did not oblige it to do so. Observing that several attempts to enact legislation governing the exercise of voting rights by Greeks living abroad had failed to secure political agreement, the Court considered that it was not its place to indicate to the national authorities when and how to give effect to that provision.

Lastly, the Court found that the disruption to the applicants' financial, family and professional lives that would have been caused had they had to travel to Greece in order to vote did not appear to be disproportionate to the point of infringing the right in question. Accordingly, it held that there had been no violation of Article 3 of Protocol No. 1.

The judgment is available in English and 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.