



Noise from a computer club seriously disturbed Bulgarian families' lives

In today's Chamber judgment in the case [Mileva and Others v. Bulgaria](#) (applications nos. 43449/02 and 21475), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

A violation of Article 8 (right to private and family life) of the European Convention on Human Rights.

The case concerned the noise and nuisance caused by the running of a computer club in the building in which the applicants lived.

Principal facts

The applicants were five Bulgarian nationals who live in Sofia. The first two, Pepa and Meri Milevi, are sisters who lived together in one apartment. The remaining three applicants, Evtimovi, are parents and daughter. The father having died in 2007, his wife and daughter continued the proceedings on his behalf.

The applicants owned and lived in flats situated on the first floor of the same residential building in the centre of Sofia. In May 2000, a company rented a flat situated on the ground floor of the building and, without obtaining the necessary permit, started using it as a computer club. In March 2002, the club moved to another flat in the same building which was also on the ground floor, opposite the original one, and diagonally below the flats of both the Milevi sisters and the Evtimovi family. The club was open 24 hours a day, seven days a week, and hosted 46 computers and two vending machines. The club's clients, mostly teenagers and young adults, often gathered in front of the building, shouted, drank alcohol and sometimes broke the building's front door and continued creating havoc in the lobby.

The applicants complained numerous times to the police and the municipal authorities about the noise and disturbance which the clients of the computer club were causing them. In July 2002, the Sofia Regional Building Control Directorate prohibited the use of the flat hosting that club. However, that decision was not enforced, partly because the Sofia City Court twice suspended its enforcement pursuant to applications by the club's owner. The computer club continued to operate until November 2004 when the flat's owner informed the authorities that it had ceased its operations.

Having obtained a building permit, the owner of the flat occupied by the computer club until March 2002 transformed it, in August 2003, into an electronic games club. The works involved pulling down internal walls, installation of high-voltage cables and

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

changing the flat's windows. The Milevi sisters complained, unsuccessfully, to the building control authorities and the police about the noise produced by the works to convert the flat into an electronic games club.

In 2002 another flat, adjacent to that of the Milevi sisters, was rented by a company for use as an office. The Milevi sisters complained to the municipal authorities about the noise produced by the office, and in particular the loud voices and telephones ringing, the moving of furniture and banging of doors, which they could hear. Apparently, the office continued operating undisturbed throughout the period.

Complaints, procedure and composition of the Court

Relying on Article 8, all applicants complained about the authorities' failure to do everything possible to stop the noise and nuisance caused by the computer club. The Milevi sisters complained in addition about the authorities' passiveness in respect of the noise produced by the electronic games club and the office.

The two applications were lodged with the European Court of Human Rights on 29 November 2002 and 29 May 2004 respectively.

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

Peer **Lorenzen** (Denmark), *President*,
Renate **Jaeger** (Germany),
Rait **Maruste** (Estonia),
Isabelle **Berro-Lefèvre** (Monaco),
Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),
Zdravka **Kalaydjieva** (Bulgaria),
Ganna **Yudkivska** (Ukraine), *Judges*,

and also Stephen **Phillips**, *Deputy Section Registrar*.

Decision of the Court

Article 8

Admissibility

The Court noted that the applicants had managed to obtain from the building control authorities a decision prohibiting the use of the computer club, which – if enforced – would have had the effect of stopping the nuisance. The domestic remedies which the applicants had not explored, namely the bringing of proceedings to evict the operators of the clubs and the office or claims under section 109(1) of the 1951 Property Act asking the courts to order an end of the nuisance, were not found by the Court to be much more likely to have provided them with effective redress than those that they actually used. Therefore, the Bulgarian Government's objection that the applicants had failed to exhaust domestic remedies was rejected.

Merits

The Court found that the noise produced by the running of the office and the electronic games club had not been sufficient to trigger the application of Article 8, as the applicants had not presented any evidence showing that the noise level had been above the acceptable or usual for those places.

However, the evidence produced in respect of the computer club had shown that it had operated around the clock, seven days a week, for almost four years, and that its clients had continuously made a lot of noise and disturbance, both outside and inside the building. That had affected the applicants' homes and their private and family lives.

Despite having received many complaints and having established that the club had been operating without the necessary license, the police and the municipal authorities had failed to act in order to protect the well-being of the applicants in their homes. In particular, although the building control authorities had prohibited, in July 2002, the use of the flat as a computer club, their decision had never been enforced, partly as a result of the two decisions by the Sofia City Court to suspend its enforcement and the inordinate protraction of the proceedings before that court. In addition, it had not been until November 2003, that was some two and a half years after the club had started functioning, that the municipality had imposed a condition to the club's managers requiring them to have clients enter the club through a back door different to the one used by the building's residents. That condition had been completely disregarded by the club and the applicants submitted that it could not have even been met given the building's layout.

Consequently, the applicants' right to respect for their homes and their private and family lives had been breached, in violation of Article 8.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Bulgaria was to pay 7,000 euros (EUR) to the Milevi sisters each in respect of non-pecuniary damage, and EUR 6,000 jointly to the Evtimovi applicants in their capacity as heirs to Mr Hristo Evtimov, EUR 6,000 to the Evtimovi mother, EUR 8,000 to the Evtimovi daughter, and, jointly to all applicants, EUR 4,000 for costs and expenses.

The judgment is available only in English.

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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.