



## A French woman classified as a “prostitute” for five years in Geneva police database violated her right to respect for private life

In today’s Chamber judgment in the case of [Khelili v. Switzerland](#) (application no. 16188/07), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

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

The case concerned the classification of a French woman as a “prostitute” in the computer database of the Geneva police for five years.

### Principal facts

The applicant, Sabrina Khelili, is a French national who was born in 1959 and lives in Saint Priest (France).

During a police check in Geneva in 1993, the police found Ms Khelili to be carrying calling cards which read: “Nice, pretty woman, late thirties, would like to meet a man to have a drink together or go out from time to time. Tel. no. ...” Following this discovery Ms Khelili alleged that the Geneva police entered her name in their records as a prostitute, despite her insistence that she had never been one. The police attested that they were basing their work on the cantonal law on data protection which authorised the police to manage records that might contain personal data for as long as was necessary to enable them to carry out their duties (namely to punish offences and prevent crimes and misdemeanours). In November 1993, as a preventive measure, the Federal Aliens Office issued a two-year ban on her residing in Switzerland.

In 2001 two criminal complaints of threatening and insulting behaviour were lodged against Ms Khelili. In 2003 she found out from a letter issued by the Geneva police that the word “prostitute” still figured in the police files. In May 2005 Ms Khelili was given a suspended sentence for 20 days for two additional complaints of insulting and abusive use of telecommunication installations lodged against her in 2002 and 2003.

In July 2005 the chief of police certified that the word describing her profession in the police database had been replaced with “dressmaker”. After having found out, in 2006, during a telephone conversation that the word “prostitute” still figured in the police computer files, Ms Khelili requested that the information relating to prostitution be deleted from the police records. In 2006 the chief of police confirmed in a letter that that had been done. Ms Khelili also requested that data concerning criminal complaints of threatening and insulting behaviour lodged against her in 2001, which also included the word “prostitute”, be deleted. That request was refused on the ground that such

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<sup>1</sup> 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)

information had to be kept as a preventive measure, given her previous infringements. Ms Khelili argued that maintaining that word in her files would make her day-to-day life more problematic, because such information would be communicated to her potential future employers.

## Complaints, procedure and composition of the Court

Ms Khelili complained that since the discovery of her calling cards by the Geneva police in 1993, she has continued to be described in the police computer records as a "prostitute" and that that word is maintained in her file related to two criminal complaints of threatening and insulting behaviour, in breach of Article 8 of the Convention.

The application was lodged with the European Court of Human Rights on 5 April 2007.

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

Françoise **Tulkens** (Belgium), *PRESIDENT*,  
Danutė **Jočienė** (Lithuania),  
Dragoljub **Popović** (Serbia),  
Giorgio **Malinverni** (Switzerland),  
Işıl **Karakaş** (Turkey),  
Guido **Raimondi** (Italy),  
Paulo **Pinto de Albuquerque** (Portugal), *JUDGES*,

and also Françoise **Elens-Passos**, *DEPUTY SECTION REGISTRAR*.

## Decision of the Court

### [Article 8 \(right to respect for private and family life\)](#)

The Court agreed that in today's case, the interference with Ms Khelili's rights had a legal basis in domestic law. The Court also recognised that Ms Khelili's data was retained for the purpose of the prevention of disorder or crime and the protection of the rights of others.

However, the Court noted that the word "prostitute" as a profession had been deleted from the police database but that that word had not been corrected in connection with criminal proceedings relating to the complaints lodged against Ms Khelili. The Court reiterated that the word at issue could damage Ms Khelili's reputation and make her day-to-day life more problematic, given that the data contained in the police records might be transferred to the authorities. That was all the more significant because personal data was currently subject to automatic processing, thus considerably facilitating access to and the distribution of such data. Ms Khelili therefore had a considerable interest in having the word "prostitute" removed from the police records.

The Court took account, firstly, of the fact that the allegation of unlawful prostitution appeared to be very vague and general and that the link between Ms Khelili's conviction for threatening and insulting behaviour and retention of the word "prostitute" was not sufficiently close. It further noted the contradictory behaviour of the authorities; despite confirmation from the police that the word "prostitute" had been corrected, Ms Khelili learned that that word had been retained on the police computer records.

Consequently, the Court concluded that the storage in the police records of allegedly false data concerning her private life had breached Ms Khelili's right to respect for her

private life and considered that the retention of the word "prostitute" for years was neither justified nor necessary in a democratic society.

### Article 41 (just satisfaction)

The Court ordered Switzerland to pay Ms Khelili 15,000 euros (EUR) in respect of non-pecuniary damage and rejected the application in respect of costs and expenses.

*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.