SECOND SECTION

CASE OF GEGLIS v. LITHUANIA

(Application no. 52815/15)

JUDGMENT
*(Just satisfaction)*

STRASBOURG

19 November 2019

*This judgment is final but it may be subject to editorial revision.*

In the case of Geglis v. Lithuania,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

 Valeriu Griţco, *President,* Egidijus Kūris, Darian Pavli, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having deliberated in private on 22 October 2019,

Delivers the following judgment, which was adopted on that date:

1. PROCEDURE

1.  The case originated in an application (no. 52815/15) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Lithuanian national, Ms Danuta Geglis (“the applicant”), on 19 October 2015.

2.  In a judgment delivered on 18 December 2018 (“the principal judgment”), the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention in view of the excessive length of the restitution process and the fact that the applicant’s property rights had still not been fully restored (*Geglis v. Lithuania* [Committee], no. 52815/15, § 56 and point 2 of the operative provisions, 18 December 2018).

3.  Under Article 41 of the Convention the applicant sought just satisfaction in respect of pecuniary and non-pecuniary damage. She did not submit any claim for costs and expenses. The Court awarded the applicant 3,000 euros (EUR) in respect of non-pecuniary damage and dismissed the remainder of her claim under that head.

4.  As regards pecuniary damage, the Court considered that the question of the application of Article 41 of the Convention was not ready for decision. It therefore reserved that question and invited the Government and the applicant to submit, within six months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (ibid., § 61 and point 3 of the operative provisions).

5.  The applicant and the Government failed to reach an agreement and submitted observations concerning the question of pecuniary damage.

1. THE LAW

6.  Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

* + 1. Damage
			1. Further developments after the adoption of the principal judgment

7.  On 10 January 2019 the National Land Service (hereinafter “the NLS”) adopted a land plan of certain areas in the Vilnius Region, in which the applicant was allocated three plots of land totalling 1.28 hectares. The applicant had previously agreed to receive those plots.

8.  On 10 April 2019 the NLS restored the applicant’s rights to five plots of land in the city of Vilnius totalling 0.0112 hectares, in joint ownership with the State. The decision stated that her property rights to the remaining 0.2786 hectares would be restored at a later date.

* + - 1. The parties’ submissions
				1. The applicant

9.  The applicant submitted that she did not have any further claims with regard to land in the Vilnius Region (see paragraph 7 above).

10.  As for land in the city of Vilnius, the applicant submitted that her property rights to 0.2786 hectares had still not been restored (see paragraph 8 above) and that, in view of the shortage of available land, it was no longer possible to restore them *in natura*. She therefore claimed EUR 282,918 as compensation for the part of the land which had not been restored to her, corresponding to the market value of that land. She contended that the amount of compensation proposed by the Government (see paragraph 14 below) was extremely low and did not correspond to the actual value of the land in question.

11.  The applicant also submitted that because of the domestic authorities’ failure to execute the Vilnius Regional Administrative Court’s decision in her favour, adopted in 2005 (ibid., § 24), she had lost the possibility of receiving a plot of 0.1027 hectares in Vilnius. She therefore claimed EUR 104,292, corresponding to the market value of such a plot.

* + - * 1. The Government

12.  The Government firstly submitted that the applicant’s property rights to the land in the Vilnius Region had been fully restored (see paragraph 7 above) and thus that issue had been resolved.

13.  As for the execution of the Vilnius Regional Administrative Court’s decision (see paragraph 11 above), the Government contended that that had not been the subject of the case examined by the Court.

14.  The Government further submitted that there was no more vacant land in the area of Vilnius where the applicant wished to have her property rights restored *in natura*, and therefore the only remaining option was to restore her property rights by means of monetary compensation. The indexed value of 0.2786 hectares of land in Vilnius, calculated by the competent public authorities in accordance with a methodology adopted by the Government, was EUR 806. The Government emphasised that compensation corresponding to the full market value of nationalised property had never been an option under Lithuanian law.

15.  The Government lastly submitted that if the applicant nonetheless wanted her property rights to land in the city of Vilnius to be restored *in natura*, she had to clearly express that wish and withdraw her claim in respect of pecuniary damage in the present case.

* + - 1. The Court’s assessment

16.  The Court reiterates that a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (see *Brumărescu v. Romania* (just satisfaction) [GC], no. 28342/95, § 19, ECHR 2001-I).

17.  In the principal judgment the Court found a violation of Article 1 of Protocol No. 1 to the Convention on account of the fact that the applicant’s property rights had not been restored with regard to 0.2884 hectares of land in the Vilnius Region and 0.2898 hectares of land in the city of Vilnius (see §§ 55-56 of the principal judgment).

18.  In view of the parties’ submissions and the material in its possession, the Court is satisfied that following the adoption of the principal judgment, the applicant’s property rights to land in the Vilnius Region have been fully restored (see paragraphs 7, 9 and 12 above). Accordingly, there are no grounds for the Court to make any award in respect of pecuniary damage in that part.

19.  The Court further considers that the applicant’s claim in respect of pecuniary damage allegedly caused by the authorities’ failure to execute a domestic court decision adopted in 2005 (see paragraph 11 above) is not directly linked to the violation found in the principal judgment. It therefore dismisses that part of the claim.

20.  As for the remainder of the applicant’s claim, the Court notes that to date, her property rights to land in the city of Vilnius have been restored only in part (see paragraph 8 above). The applicant in her submissions stated that since there was no more land available in Vilnius, she would like her remaining property rights to be restored by means of monetary compensation (see paragraph 10 above). Taking into account the Government’s submissions on that issue (see paragraphs 14 and 15 above), the Court is of the view that the applicant should be awarded pecuniary damages. If any related claims are subsequently brought before the domestic authorities, the latter will be entitled to take into account the award made by the Court in this judgment (see *Gladysheva v. Russia*, no. 7097/10, § 104, 6 December 2011, and *Nekvedavičius v. Lithuania* (just satisfaction), no. 1471/05, § 23, 17 November 2015).

21.  The Court has previously accepted that the principle of partial restitution to rectify old wrongs conformed to the Convention, and that, consequently, the amount of compensation for long-extinguished property rights could be assessed in accordance with calculation methods established in relevant legislation rather than with the full market value of such property (see *Beinarovič and Others v. Lithuania*, nos. 70520/10 and 2 others, § 142, 12 June 2018, and the cases cited therein). In a number of cases against Lithuania, the Court accepted that the payment of compensation corresponding to the indexed value of property, established by competent public authorities, was in line with the requirement to strike a fair balance under Article 1 of Protocol No. 1 to the Convention (see *Paukštis v. Lithuania*, no. 17467/07, § 81, 24 November 2015; *Valančienė v. Lithuania*, no. 2657/10, § 67, 18 April 2017; and *Bartulienė v. Lithuania* [Committee], no. 67544/13, § 71, 24 April 2018).

22.  Accordingly, the Court cannot accept the applicant’s claim that she should be compensated for the full market value of the land which has not been returned to her (for similar situations, see *Nekvedavičius*, cited above, § 20, and *Bykova and Others v. Lithuania* [Committee], no. 66042/10, § 59, 18 December 2018). It takes note of the Government’s submission that the indexed value of that land, as established by the competent public authorities, was EUR 806 (see paragraph 14 above).

23.  The Court observes that the authorities ought to have known as early as 1991 that the applicant was eligible for the restoration of her property rights, following a request lodged by her sister, and that the applicant herself lodged such a request in 2000 (see § 52 of the principal judgment). To date, however, her property rights have not been fully restored. In such circumstances, the Court considers it appropriate to take into account the long time that it took the Government to compensate the applicant, and that award’s loss of value over time (see *Beinarovič and Others v. Lithuania* (just satisfaction)*,* nos. 70520/10 and 2 others, § 20, 25 June 2019, and the cases cited therein).

24.  In the light of the above-mentioned circumstances, the Court awards the applicant EUR 1,500 in respect of pecuniary damage.

* + 1. Costs and expenses
			1. The parties’ submissions

25.  The applicant claimed EUR 2,000 for the costs and expenses incurred in the proceedings before the Court. She provided an invoice issued by her lawyer, according to which the applicant had undertaken to pay EUR 500 for the preparation of the application to the Court, EUR 1,000 for the preparation of observations on the merits and EUR 500 for the preparation of observations on just satisfaction.

26.  The Government contended that the Court should consider only the costs and expenses incurred by the applicant in relation to the observations for just satisfaction, since she had failed to submit the remaining claims at the appropriate stage of the proceedings (see paragraph 3 above).

* + - 1. The Court’s assessment

27.  In accordance with the Rules of Court, an applicant who wishes to obtain an award of just satisfaction under Article 41 of the Convention must make a specific claim to that effect within the time-limit fixed for the submission of his or her observations on the merits unless the President of the Chamber directs otherwise (Rule 60 §§ 1 and 2). If the applicant fails to comply with these requirements the Court may reject the claims in whole or in part (Rule 60 § 3).

28.  In the present case, the applicant did not submit any claim in respect of costs and expenses within the time-limit fixed for the submission of her observations on the merits (see paragraph 3 above and § 63 of the principal judgment). Accordingly, the Court rejects the part of the claim concerning the preparation of the application and the applicant’s observations on the merits of the case.

29.  However, regard being had to the documents in its possession, the Court grants the applicant’s claim concerning the preparation of her observations on just satisfaction, and awards her EUR 500.

* + 1. Default interest

30.  The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

1. FOR THESE REASONS, THE COURT, UNANIMOUSLY,
2. *Holds*
	1. that the respondent State is to pay the applicant, within three months, the following amounts:
		1. EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of pecuniary damage;
		2. EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
	2. that from the expiry of the above-mentioned three months until settlement, simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;
3. *Dismisses* the remainder of the applicant’s claim for just satisfaction.

Done in English, and notified in writing on 19 November 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

 Hasan Bakırcı Valeriu Griţco
 Deputy Registrar President