EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
issued by the Registrar of the Court

ECHR 274 (2020)
06.10.2020

Rights breach of protestor left permanently injured after police intervened to disperse spontaneous gathering

In today's **Chamber** judgment[1] in the case of Laguna Guzman v. Spain (application no. 41462/17) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights.

The case concerned the applicant's complaint that she had been left permanently injured after the police forcefully dispersed a spontaneous gathering that had taken place after an official demonstration.

The Court found in particular that the spontaneous protest had been peaceful up until its dispersal and that the applicant herself had not been arrested or prosecuted for any violent actions. The use of force deployed by the police had not therefore been justified and had amounted to a disproportionate interference with the applicant's rights.

Principal facts

The applicant, Montserrat Laguna Guzman, is a Spanish national who was born in 1967 and lives in Santovenia de Pisuerga (Spain).

On 2 February 2014, the applicant took part in a demonstration in Valladolid against budgetary cuts and high unemployment rates. The authorities had been notified in advance of the demonstration as required by Spanish legislation and the necessary measures had been requested by the organisers to regulate road traffic.

However, after the demonstration officially ended, a group of 50 to 60 protesters continued marching. They stopped at a square in front of a restaurant where some politicians were having lunch, and displayed a placard reading "stop the criminalisation of social protest".

Ms Guzman, who was holding the placard, was injured when the police intervened to disperse the protest. She was struck with a truncheon, and taken to hospital to be treated for injuries to her mouth, hand and head. In 2016, the Institute of Legal Medicine of Valladolid concluded that she was "permanently incapacitated" as a consequence of her injuries.

The courts subsequently dismissed criminal proceedings brought against the policemen for causing bodily harm, finding that they had had to use force in the face of a situation of violence and disorder. The applicant's *amparo* appeal against this decision was declared inadmissible by the Constitutional Court in 2017.

Criminal proceedings were also brought against three of the protesters, but they were acquitted in 2018. The judge ruling on the case concluded that the protesters had been violently repressed without any prior warning, despite the fact that they had not blocked traffic or provoked the confrontation with the police.

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.

The 2018 criminal judgment was taken into account by the *Audiencia National* in 2019 when ruling on Ms Guzman's claim for compensation against the Ministry of the Interior for her injuries. She was awarded 10,000 euros.

No criminal proceedings were ever initiated against Ms Guzman.

Complaints, procedure and composition of the Court

Relying on Article 11 (freedom of assembly and association), the applicant alleged that the police's use of force against her and other protesters had been grossly disproportionate.

The application was lodged with the European Court of Human Rights on 29 May 2017.

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

Paul **Lemmens** (Belgium), *President*,
Georgios A. **Serghides** (Cyprus),
Alena **Poláčková** (Slovakia),
María **Elósegui** (Spain),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),
Ana Maria **Guerra Martins** (Portugal),

and also Milan **Blaško**, *Section Registrar.*

Decision of the Court

The Court considered that the dispersal of the informal protest after the official demonstration, resulting in the applicant sustaining injuries, had interfered with her right to freedom of peaceful assembly.

The Court reiterated that while rules governing public assemblies, such as prior notification, were essential for the smooth conduct of public events, their enforcement could not become an end in itself. In particular, the public authorities had to show a certain degree of tolerance towards spontaneous demonstrations which remained peaceful.

It considered that that tolerance should be extended to the case at hand. Although the spontaneous gathering in question had caused a certain amount of nuisance, it had been conducted in a peaceful manner up until its dispersal. Indeed, it had not been argued or demonstrated that it would have been difficult for the police to contain or redirect the protesters, or otherwise control the situation. Nor had it been shown that the demonstration had posed a high level of disruption to public order. The authorities had not therefore provided relevant and sufficient reasons justifying the dispersal of the demonstration.

Indeed, it had been established in the proceedings ending in 2018 that the protesters' behaviour and the harmlessness of their slogans and placards had not justified the force deployed by the police.

Such unjustified use of force against the applicant in particular, who had never been arrested or prosecuted for any violent actions during the protests, was therefore sufficient for the Court to conclude that the interference with her rights had been disproportionate, in violation of Article 11.

Just satisfaction (Article 41)

The Court held that Spain was to pay the applicant 248.10 euros (EUR) in respect of 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.