



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

SECOND SECTION

CASE OF TARVYDAS v. LITHUANIA

(Application no. 36098/19)

JUDGMENT

Art 6 § 1 (civil) • Fair hearing • Failure of domestic courts to address arguments raised by applicant in decisions ordering him to restore an unlawfully demolished house to its former state

STRASBOURG

23 November 2021

FINAL

23/02/2022

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Tarvydas v. Lithuania,

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

Jon Fridrik Kjølbro, *President*,

Aleš Pejchal,

Valeriu Grițco,

Egidijus Kūris,

Branko Lubarda,

Pauliine Koskelo,

Saadet Yüksel, *judges*,

and Stanley Naismith, *Section Registrar*,

Having regard to:

the application (no. 36098/19) 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, Mr Jeronimas Tarvydas (“the applicant”), on 18 June 2019;

the decision to give notice to the Lithuanian Government (“the Government”) of the complaint under Article 6 § 1 of the Convention concerning the allegedly insufficient reasoning of the court decisions and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 2 November 2021,

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

INTRODUCTION

1. The case concerns domestic court decisions ordering the applicant to restore a protected building which he had unlawfully demolished. The applicant complained under Article 6 § 1 of the Convention that the courts had not adequately addressed his arguments that the building had been dilapidated and that its restoration would be impossible.

THE FACTS

2. The applicant was born in 1964 and lives in Lendimai, in the Kretinga region. He was represented before the Court by Mr D. Cvetkovas, a lawyer practising in Klaipėda.

3. The Government were represented by their Agent, Ms K. Bubnytė-Širmenė.

4. The applicant’s mother owned a plot of land in Benaičiai, in the Kretinga region. The plot contained a wooden house and three other wooden buildings, all of which had been built in the eighteenth and nineteenth

centuries. On various dates the buildings were recognised as objects of protected cultural heritage.

5. In 2009 the authorities inspected the buildings and found that the condition of the house ranged from poor to dilapidated (*blogos/avarinės būklės*).

6. In 2011 the applicant became the owner of the land and the buildings.

7. In March 2016 the authorities inspected the buildings and found that the wooden house had been partly demolished and a new brick house was being built in its place. The applicant explained that his mother had lived in the wooden house which had been dilapidated and that he had started building the new house in order to improve her living conditions. He stated that he had not been aware that the house was protected.

8. In May 2016 the State Inspectorate on Territorial Planning and Construction under the Ministry of the Environment (hereinafter “the Inspectorate”) found that the applicant had reconstructed a protected building without obtaining the relevant permits. It ordered him to restore the wooden house to its former state within six months. The applicant did not comply with that order.

9. In July 2016 the Kretinga District Court found that the applicant’s actions had constituted an administrative offence of the unlawful reconstruction of an object of cultural heritage, and sentenced him to a fine of 1,000 euros (EUR).

I. COURT PROCEEDINGS CONCERNING THE RESTORATION OF THE HOUSE

A. Proceedings before the Kretinga District Court

1. *The parties’ submissions*

10. In December 2016 the Inspectorate instituted court proceedings against the applicant. It requested that the court order him to either (1) obtain the relevant documents and retroactively legalise the unlawful reconstruction of the house or (2) restore the house to its former state, as provided for in the relevant parts of the Law on the State Supervision of Territorial Planning and Construction.

11. The Department of Cultural Heritage under the Ministry of Culture, which was a third party in the proceedings, submitted that, in view of the house’s status as an object of protected cultural heritage, the unlawful reconstruction could not be legalised retroactively, and the only possible outcome was to order the applicant to restore the house; it invoked Article 29 § 1 of the Law on the Protection of Immovable Cultural Heritage (see paragraph 35 below). The Department of Cultural Heritage submitted to the court an assessment carried out by an expert in the relevant field. According to that assessment, restoring the house would cost approximately

EUR 66,000, comprising the building materials, labour costs and other related expenses.

12. The applicant did not dispute the fact that his actions had been unlawful. However, he argued that it had been impossible to restore the house to its former state because it had been dilapidated and at risk of collapsing (see paragraph 5 above). Therefore, its restoration would in fact amount to building a new house from new materials, which would not be authentic and would not have the same cultural importance as the demolished eighteenth-century house. The applicant submitted that the court should rule that the object of cultural heritage had disappeared and that the damage which had been caused by its demolition should be compensated for in a different way, such as by the payment of monetary compensation; to that effect, he relied on several provisions of the Law on the Protection of Immovable Cultural Heritage (see paragraphs 36-38 below).

2. The Kretinga District Court's decision

13. On 31 July 2017 the Kretinga District Court dismissed the claim brought by the Inspectorate. It observed that there was no dispute that the partial demolition of the wooden house and the construction of the brick house in its place had been unlawful. Nonetheless, referring to the relevant case-law of the Supreme Court, it emphasised that in cases concerning unlawful construction, it was important to choose a way of eliminating the effects of such construction which would be proportionate to the aims pursued and possible to implement in practice.

14. The court dismissed the first of the Inspectorate's claims (see paragraph 10 above) on the grounds that the law did not provide for the possibility of retroactively legalising the unlawful demolition of a protected building.

15. As to the second claim (see paragraph 10 above), the court held that it could not be implemented in practice because, as correctly pointed out by the applicant, the house had been dilapidated and its restoration would amount to constructing a new building from inauthentic materials (see paragraph 12 above). Lastly, the court observed that the applicant had been held liable for an administrative offence and issued with a fine (see paragraph 9 above); thus he had faced some negative consequences of his unlawful actions.

B. Remittal of the case for fresh examination

1. The parties' submissions

16. The Inspectorate and the Department of Cultural Heritage lodged appeals against the Kretinga District Court's decision. They submitted that the law provided an exhaustive list of ways to eliminate the effects of

unlawful construction, and the fact that the court had not applied any of them had been contrary to the law and had unjustifiably prioritised the interests of the applicant over those of society. They further argued that the court had not given due reasons for its conclusion that the reconstruction of the demolished house would be impossible.

17. The applicant submitted a reply to those appeals in which he reiterated his earlier arguments that the restoration of the house would be impossible in practice (see paragraph 12 above). He also submitted that certain parts of the house had been built from materials which had since been banned, and thus the house could not be restored in its authentic form. Moreover, he argued that the claim and the appeals were vague and formalistic; they did not provide any details regarding the way in which an object of cultural heritage should be restored and which procedures should apply, and if such a claim were allowed by the courts it would only invite further litigation. The applicant further submitted that he did not have sufficient funds to rebuild the house and argued that, given all the circumstances, the most appropriate way of protecting the public interest was to order him to pay damages. He contended that if the claim were dismissed it would not preclude the Inspectorate from instituting new proceedings against him seeking a resolution which was more appropriate in the circumstances.

2. The Klaipėda Regional Court's decision

18. On 14 December 2017 the Klaipėda Regional Court quashed the lower court's decision in part. It agreed with the lower court's finding that the law did not provide for the possibility of retroactively legalising the unlawful demolition of a protected building (see paragraph 14 above) and it upheld that part of the decision. However, the Klaipėda Regional Court considered that the lower court had not adequately examined whether the requirement to restore the demolished house could be implemented in practice: it had not explained on what basis it had concluded that the house had been dilapidated; it had not assessed whether the house and its cultural importance could be restored by using inauthentic building materials; and it had not examined the exact conditions and procedures which applied in relation to restoring an object of cultural heritage. That part of the case was remitted for fresh examination.

C. Fresh examination by the Kretinga Chamber of the Plungė District Court

19. During the fresh examination of the case, the applicant provided the court with recent photographs of the remaining part of the house in order to demonstrate its dilapidated condition. He also submitted an assessment

carried out by a construction specialist who had examined the house in May 2018 and had concluded that it was dilapidated and not safe to use.

20. On 11 June 2018 the Kretinga Chamber of the Plungė District Court dismissed the claim brought by the Inspectorate. It observed that the available documents demonstrated that the house was dilapidated and that there was no possibility of restoring it using authentic building materials. It further observed that, according to the Department of Cultural Heritage, the cost of restoring the house from new materials would amount to approximately EUR 66,000 (see paragraph 11 above). However, the applicant's income was low, and the land and buildings in question were his only real estate. Thus, the court concluded that the order to restore the house would likely not be implemented because of the applicant's financial situation.

D. Proceedings before the Klaipėda Regional Court

1. The parties' submissions

21. The Inspectorate and the Department of Cultural Heritage lodged appeals against the court's decision. They submitted that, in cases of unlawful construction, neither the relevant legal instruments nor the case-law provided for any possibility of releasing a defendant from the obligation to eliminate the effects of such construction. They also argued that the applicant's financial situation did not constitute grounds to exempt him from that obligation and that the first-instance court had failed to examine whether the cost of the restoration might be lower than that indicated in the expert assessment (see paragraph 11 above). Therefore, they contended that the decision given by the first-instance court had not been based on the law and that it had been insufficiently reasoned.

22. The applicant submitted a reply to the appeals in which he raised essentially the same arguments as in his previous replies (see paragraphs 12 and 17 above). He further argued that requiring him to restore a dilapidated building by building a new one using inauthentic building materials at a cost of EUR 66,000 would be contrary to the principles of justice, fairness, reasonableness and proportionality. In particular, he relied on a decision adopted by the Supreme Court in which that court had held that an order to restore a demolished building which had been dilapidated prior to the demolition would be contrary to the law and impossible to implement in practice (see paragraph 39 below).

2. The Klaipėda Regional Court's decision

23. On 13 September 2018 the Klaipėda Regional Court quashed the lower court's decision and allowed the Inspectorate's claim in part. It emphasised that the right to respect for one's possessions was not absolute

and that it had to be exercised in accordance with the limits established by law. In the present case, there was no dispute that the actions carried out by the applicant – the demolition of a part of the wooden house and the construction of a new house in its place – had been unlawful. Moreover, the courts had already found that the law did not provide for the possibility of retroactively legalising the unlawful demolition of a protected building (see paragraphs 14 and 18 above); that part of the decision had become final and could no longer be challenged. The Klaipėda Regional Court held that, in such circumstances, the legal provisions which required the restoration of the unlawfully demolished building had to be applied.

24. The court held that the applicant's difficult financial situation and the high cost of restoration could not exempt him from the obligation, as provided for by law, to eliminate the effects of the unlawful construction and to restore the demolished part of the protected building. It also observed that the cost of restoration which had been indicated by the Department of Cultural Heritage (see paragraph 11 above) was only provisional and that the actual cost might turn out to be lower. The court further held that the law provided the applicant with various possibilities for applying to the relevant authorities to seek financial aid for the restoration of the house.

25. Accordingly, the court ordered the applicant to restore the demolished part of the house within two years. If he failed to comply with that order, he would be subjected to a fine of EUR 5 for each day beyond the expiry of the time-limit.

E. Proceedings before the Supreme Court

26. The applicant lodged two appeals on points of law. In both of them he submitted, *inter alia*, that the appellate court had not addressed the main arguments which he had presented in his replies to the claim and the appeals, notably that the house had been dilapidated and that it was therefore impossible to restore it to its former state.

27. On 5 November and 19 December 2018 the Supreme Court refused to accept for examination the appeals on points of law lodged by the applicant, on the grounds that they did not raise any important legal issues.

II. OTHER RELEVANT FACTS

28. On an unspecified date the applicant demolished the brick house which he had built in the place of the demolished part of the old wooden house (see paragraph 7 above).

29. In 2019 the applicant submitted enquiries to various authorities asking about the possibility of obtaining financial aid for the restoration of the house (see paragraph 24 above). He received responses from the Kretinga Region Municipality and the Department of Cultural Heritage

informing him that, in the circumstances of the case, financial aid was not available.

30. Following an application lodged by the applicant, on 22 October 2020 the Klaipėda Regional Court prolonged the time-limit for him to restore the demolished house by a further two years on the grounds that he had lodged the present application with the European Court of Human Rights and that the case was still pending.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. REASONING OF COURT DECISIONS

A. Code of Civil Procedure

31. Article 270 § 1 of the Code of Civil Procedure provides that a court decision is composed of four parts: (1) the introductory part, (2) a description of the parties' submissions, (3) the court's reasoning and (4) the operative part.

32. Under Article 270 § 4, the court's reasoning must contain a brief description of the circumstances established by the court, an assessment of the evidence on which the court has based its decision, the reasons for which the court dismissed certain evidence, and the legal instruments and other legal arguments relied on by the court.

B. Case-law of the Constitutional Court

33. The Constitutional Court has held in a number of rulings that a court decision must contain the reasons on which it was based and that those reasons must be clear and convincing (among others, the rulings of 1 October 1997, 6 January 2006 and 21 September 2006).

34. In its ruling of 21 September 2006 the Constitutional Court held:

“The constitutional imperatives that only courts shall administer justice [and] that the law [shall be] public, as well as the requirement arising from the Constitution to examine a case in a fair manner, imply that every court judgment (or other final decision given by a court) must be based on legal arguments (reasoning). The process of reasoning must be rational: a judgment ... must contain sufficient arguments to [make it well-founded] ... In this context, it must be noted that the requirement of legal clarity, which arises from the constitutional principle of a State under the rule of law, means that, *inter alia*, a court judgment ... must not contain any implicit arguments or any unspecified circumstances which are relevant to the delivery of a fair judgment ... Court judgments ... must be clear to the parties to the case as well as to other people. Where this requirement is disregarded, this shall constitute failure to ensure the administration of justice as required by the Constitution.”

II. PROTECTION OF CULTURAL HERITAGE

A. Law on the Protection of Immovable Cultural Heritage

35. Article 29 § 1 of the Law on the Protection of Immovable Cultural Heritage provides that anyone who has caused damage to an immovable object of cultural heritage must, to the extent that it is possible, restore it to the condition which existed before the damage occurred and afford compensation for the direct and indirect damage sustained by society and by the owner of that object.

36. Article 5 § 10 (20) provides that the Department of Cultural Heritage has the authority to determine the way of restoring the damaged object of cultural heritage and to assess the amount of the damage caused.

37. Article 23 § 4 states that objects of cultural heritage which have been destroyed by natural catastrophes or by people may, in exceptional circumstances and without endangering any of their remaining valuable parts, be restored, provided that the following conditions are met: (1) the possibility of restoration is based on extensive historical sources and physical data; (2) the object has a special artistic or symbolic significance, or is particularly important to the national identity and the protection of cultural heritage, and fits in with its surroundings; and (3) the restoration is supported by the relevant authorities and by society.

38. Under Article 10 § 6, if an object of cultural heritage has disappeared or has been destroyed, or its valuable properties have been otherwise lost, and the reasons or the persons responsible have been identified, the decision to declare that object as being part of the cultural heritage may be reversed or amended.

B. Case-law of the Supreme Court

39. In a decision of 22 April 2015 (civil case no. 3K-3-230-969/2015), the Supreme Court examined an application requesting that a demolished building which had been dilapidated prior to its demolition be restored to its former state. The Supreme Court acknowledged that the demolition had been unlawful because it had been carried out without the consent of all the co-owners of the building. Nonetheless, it held that ordering someone to restore a situation which had existed before an unlawful act occurred was one specific way of protecting violated rights; the possibility of applying that measure depended on, *inter alia*, whether the restoration was possible, whether the situation which had existed previously had complied with the law, and whether the restoration would be in line with the principles of justice, reasonableness and fairness. In the case at hand, the Supreme Court agreed with the findings of the first-instance and appellate courts, which had found that ordering the defendants to restore the demolished building to its

former state would in fact amount to an order to create a dilapidated building, which was contrary to the laws on construction and impossible to implement in practice.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

40. The applicant complained that the domestic courts had not addressed his arguments concerning the alleged impossibility of restoring the house to its former state and that they had ordered him to do something which was impossible. He relied on Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

41. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

42. The applicant submitted that the Klaipėda Regional Court, which had adopted the final decision on the merits in his case, had not addressed his arguments concerning the dilapidated state of the house and the impossibility of restoring it to its former state. Nor had that court addressed his argument that the most appropriate way of compensating for the damage caused by the demolition of the house would be to order him to pay monetary compensation – the applicant submitted that the legal provisions to which he had referred in the domestic proceedings provided for such a possibility (see paragraph 12 above). Moreover, that court had disregarded the applicant's financial capacity to restore the house and had based its decision on the hypothetical possibilities that the cost of the restoration might actually be lower or that financial aid might be available (see paragraphs 23-25 above).

43. The applicant further submitted that the Supreme Court had, in another case, found that an order to restore a demolished building which had been dilapidated would be contrary to the law and impossible to implement

in practice (see paragraph 39 above). He had relied on that decision in his submissions made before the courts (see paragraph 22 above), but they had not addressed that point.

(b) The Government

44. The Government submitted that there was no dispute that the applicant had unlawfully demolished part of a protected building. They contended that the law provided an exhaustive list of possible ways of eliminating the effects of unlawful construction and that the courts could not have applied any measures which were not provided for by law. In view of the fact that the possibility of retroactive legalisation had been dismissed by the first-instance court and that the relevant part of the decision had become final (see paragraph 18 above), the only available option for the Klaipėda Regional Court had been to order the applicant to restore the building. The Government submitted that any other decision would have left the case unresolved, and that would have been contrary to the law. They argued that the decision given by the Klaipėda Regional Court had been sufficiently reasoned and foreseeable to the applicant, taking into account the relevant legal provisions and case-law.

45. With regard to the reasoning of the Klaipėda Regional Court, the Government submitted that its assessment had been limited by the nature and purpose of the appeal proceedings and by the arguments contained in the appeals lodged by the Inspectorate and the Department of Cultural Heritage. In view of the fact that the first-instance court had based its decision mainly on the applicant's poor financial situation (see paragraph 20 above) and the appellants had contested it, the appellate court had justifiably focused on that issue. The Government contended that the Klaipėda Regional Court had had due regard to the applicant's financial situation by giving him a sufficiently long period during which to restore the house (two years) and by detailing the possibilities of obtaining financial aid.

46. The Government further submitted that the applicant's assertion that restoring the house would be impossible had been refuted by the evidence presented before the courts and specifically by the assessment prepared by the Department of Cultural Heritage together with an expert in the relevant field (see paragraph 11 above).

2. The Court's assessment

47. The relevant general principles concerning the obligation for courts to adequately state the reasons on which their decisions are based have been summarised in *García Ruiz v. Spain* ([GC], no. 30544/96, § 26, ECHR 1999-I) and *Deryan v. Turkey* (no. 41721/04, §§ 30-33, 21 July 2015, and the cases cited therein).

48. Turning to the circumstances of the present case, the Court notes that it was not disputed that the applicant's actions – the partial demolition of the wooden house and the construction of a new house in its place – had been unlawful (see paragraph 12 above). It is not the task of this Court to take the role of the domestic courts, which are better placed to interpret the domestic law and to assess the evidence before them (see, among many other authorities, *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018). Therefore, it is for the domestic courts, and not for this Court, to assess the damage which was caused to the public interest by the applicant's actions and to determine the most appropriate way of remedying it.

49. The Court's assessment in the present case is limited to examining whether the domestic courts adequately reasoned their decisions by responding to pertinent and important points raised by the applicant (see *Deryan*, cited above, § 35). To that end, it observes that the obligation for the courts to provide adequate reasons for their decisions is likewise established in the Code of Civil Procedure and in the case-law of the Constitutional Court (see paragraphs 32-34 above).

50. Throughout all the stages of the domestic court proceedings the applicant argued, *inter alia*, that the requirement for him to restore the demolished house to its former state would be impossible to implement because, prior to the demolition, the house had been dilapidated; as proof, he relied on assessments of the condition of the house which had been carried out in 2009 and 2018. He also referred to a Supreme Court judgment which had concerned the possibility of restoring a previously dilapidated building. Moreover, he argued that building a new house would not restore its previous cultural importance and that it would impose a disproportionate burden on him. He suggested that instead he should be ordered to compensate for the damage done to the public interest by paying damages; he indicated the provisions of domestic law which, in his view, allowed for such a possibility (see paragraphs 12, 17, 19 and 22 above).

51. It is not the task of the Court to decide what would have been the most appropriate way for the domestic courts to deal with those arguments (see *Pronina v. Ukraine*, no. 63566/00, § 25, 18 July 2006). Moreover, Article 6 § 1 of the Convention cannot be understood as requiring the courts to provide a detailed answer to every argument raised by the parties (see, among many other authorities, *Suominen v. Finland*, no. 37801/97, § 34, 1 July 2003). Nonetheless, the courts are not relieved of the obligation to undertake a proper examination of, and to respond to, the main pleas put forward by the parties (see *Paliutis v. Lithuania*, no. 34085/09, § 45, 24 November 2015, and the cases cited therein).

52. In the Court's view, the above arguments raised by the applicant were specific, pertinent and important (see *Mala v. Ukraine*, no. 4436/07, § 48, 3 July 2014, and the cases cited therein), and the Government did not

argue otherwise. However, the Klaipėda Regional Court, which was the final domestic court to examine the merits of the case and the first one to allow the claim against the applicant, did not explicitly address them or provide any reasons why it may have considered it unnecessary to do so, nor did it engage in any way with the legal provisions and the case-law relied on by the applicant (see paragraphs 23-25 above). The Court observes that, at the time when the applicant became the owner of the house, its condition had already been found to range from poor to dilapidated (see paragraphs 5 and 6 above); however, the domestic courts did not attempt to establish the value of the part which had been demolished, they did not assess the practical possibility of restoring it or the authenticity and cultural importance of a restored building, nor did they examine whether ordering the applicant to restore it was proportionate and reasonable in the circumstances of the case.

53. The Government submitted that some of the arguments made by the applicant had been refuted by the evidence in the case file (see paragraph 46 above). However, irrespective of whether it was indeed so, the Court notes that no such reasons were provided in any of the decisions delivered in the case (see, *mutatis mutandis*, *Paliutis*, cited above, § 45).

54. In such circumstances, the Court is unable to find that the applicant was heard by the domestic courts, as required by Article 6 § 1 of the Convention (see *Suominen*, § 37, and *Deryan*, § 30, both cited above).

55. The foregoing considerations are sufficient to enable the Court to conclude that the civil proceedings in question could not be considered “fair” within the meaning of Article 6 § 1 of the Convention. Accordingly, there has been a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. 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.”

A. Damage

57. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

58. The Government submitted that that claim was excessive and unsubstantiated. They contended that the most appropriate way of remedying a violation of Article 6 § 1 of the Convention was the reopening of the domestic proceedings, which was provided for under domestic law in the event of the finding of a violation by the Court.

59. The Court considers that where, as in the present case, an individual has been the victim of proceedings that have entailed breaches of the requirements of Article 6 of the Convention, a retrial or the reopening of the case, if he or she so requests, represents in principle an appropriate way of redressing the violation (see *Cudak v. Lithuania* [GC], no. 15869/02, § 79, ECHR 2010, and the cases cited therein).

60. Accordingly, the Court finds that in the circumstances of the present case, the finding of a violation constitutes in itself sufficient just satisfaction and makes no award under this head.

B. Costs and expenses

61. The applicant claimed EUR 1,650 for the costs and expenses incurred before the Court, consisting of EUR 1,210 for the lawyer's fees and EUR 440 for the translation of the documents received from the Court into Lithuanian. He submitted a copy of a legal services agreement with his lawyer and copies of the relevant receipts.

62. The Government submitted that the translation costs had not been necessarily incurred because, according to publicly available information, the applicant's lawyer spoke English.

63. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, the Court observes in particular that the applicant did not explain why the translation from English into Lithuanian had been necessary; it therefore rejects that part of the claim (see *Kožemiakina v. Lithuania*, no. 231/15, § 65, 2 October 2018, and the case-law cited therein). As to the lawyer's fees, regard being had to the documents in its possession and the above criteria, the Court awards the applicant EUR 1,210.

C. Default interest

64. 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.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,210 (one thousand two hundred and ten euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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Stanley Naismith
Registrar

Jon Fridrik Kjølbro
President