



Germany's refusal to pay compensation to descendants of SS massacre victims in Greece: Court declares complaint inadmissible

In its decision in the case of [Sfountouris and Others v. Germany](#) (application no. 24120/06) the European Court of Human Rights has by a majority declared the application inadmissible. The decision is final.

Principal facts

The applicants are four Greek nationals¹ whose parents were killed in Distomo (Greece) in June 1944 by members of the *Waffen SS*, who belonged to the German occupying military forces in Greece, in a massacre perpetrated in retaliation for partisan activity during which 218 people were killed in total. The applicants, minors at the time, survived the massacre by chance.

Together with around 250 other people, the applicants brought proceedings before a Greek district court in 1995 claiming compensation from Germany, which the court partially allowed in October 1997. The judgment was upheld on appeal, but the Greek Justice Minister refused to give his consent to a forced execution of the judgment against Germany.

In parallel, the applicants brought proceedings before the German courts claiming compensation. While acknowledging the applicants' immeasurable suffering, the courts rejected their claims at all levels of jurisdiction, holding that there was no basis in international or German law for the applicants' entitlement to compensation. In particular, the Hague Convention IV on Laws and Customs of War on Land of 1907 did not provide for individual compensation, the German restitution law of 1953 was only applicable to victims of Nazi persecution and not to acts of war. The applicants could further not rely on the State's civil liability, as in 1944 there had been no mutual agreement in this regards between Germany and Greece. On 15 February 2006, the Federal Constitutional Court refused to admit the applicants' constitutional complaint.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, the applicants complained of the German courts' refusal to award them compensation for the damages sustained. They further relied on Article 14 of the Convention (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1, alleging that they were discriminated against by the failure of the German legislator to compensate victims of massacres committed by the German military abroad while victims of Nazi persecution and forced labourers had been compensated.

The application was lodged with the European Court of Human Rights on 9 June 2006.

¹ One of the applicants, Mr Argyris Sfountouris, also has Swiss citizenship. Another applicant, Ms Astero Liaskou, died during the proceedings; her four children informed the Court that they wished to pursue the application on her behalf.

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

Dean **Spielmann** (Luxembourg), *President*,
Karel **Jungwiert** (the Czech Republic),
Boštjan M. **Zupančič** (Slovenia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Ann **Power** (Ireland),
Angelika **Nußberger** (Germany), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Article 1 of Protocol No. 1

The Court underlined that according to its established case law the Convention did not impose any specific obligation on contracting States to provide redress for injustice or damages caused by their predecessor States. In the present case, the German courts, after having taken into consideration the applicable national and international law, had denied that the applicants had an individual right to compensation. In view of the material before it, the Court did not find that the domestic courts – who were in principle better placed to interpret national law – had applied national or international law in an arbitrary manner. Consequently, the applicants had no legitimate expectation to be able to benefit from compensation for the damages sustained. The decisions by which the courts had rejected their claims did therefore not fall under the remit of Article 1 of Protocol No. 1. The complaint under that Article was hence inadmissible.

Article 14 together with Article 1 of Protocol No. 1

The Court reiterated that according to its case law the prohibition of discrimination under Article 14 complemented the substantive clauses of the Convention and did not have an independent existence. As the Court had already established that the applicants had no legitimate expectation to be able to benefit from compensation and that their complaint did not fall under the remit of Article 1 of Protocol No. 1, Article 14 was not applicable either. The complaint under that Article thus had to be declared inadmissible as well.

The decision 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.