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

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Demolition plan without compensation did not breach company's property rights

In today's **Chamber** judgment[1] in the case of **Kristiana Ltd. v. Lithuania** (application no. 36184/13) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights; and

no violation of Article 6 § 1 (right to a fair trial within a reasonable time) of the European Convention.

The case concerned the applicant company's allegation of unlawful and unreasonable restriction of its property rights, following its purchase of privatised former military buildings situated in a protected area. In particular, the company alleged that it had been denied the opportunity to repair and renovate its premises, and that despite its buildings being earmarked for demolition, no compensation had been made available, and no time-limits had been set.

The Court found that the restrictions on the company's use of its buildings were lawful, foreseeable, in pursuit of a general public interest, and proportionate. Further, the Court found that, despite certain shortcomings in the decision of the first-instance court in 2012, the domestic courts had examined the company's case, and had provided sufficient reasons why, under national law, the case did not qualify for further examination.

Principal facts

The applicant, Kristiana Ltd., is a limited company based in Vilnius. In 2000 it purchased some former military buildings. These were situated in the Curonian Spit National Park, a landscape subject to specific legal protection and (from November 2000) included on the UNESCO World Heritage List (up to then, it had been included on the Tentative World Heritage List). From 1994 the park had also been subject to a Government development plan which included the proposed removal of the buildings and the restoration of the natural environment.

Various plans concerning the buildings were proposed, but in 2002 the authorities decided that the use of the land had to be restricted on account of its specific location. The applicant company's challenge to this was subsequently defeated in the courts. In 2006 the authorities confirmed that the buildings would need to be demolished. Meanwhile, the applicant company was obliged to continue paying the land tax.

In 2010 the company's application for planning permission to carry out major repair work on the buildings was refused.

In 2012 it complained to the State Territorial Planning and Construction Inspectorate, arguing that it had legitimate expectations to retain control of its buildings and to reconstruct them. It requested that a draft Management Plan, which included provisions regarding the applicant company's

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.

buildings, be amended to include either the issue of compensation or the inclusion of the buildings in the landscape management recreational zone, set forth in the plan. The Government set up a working group to examine the proposals, and subsequently approved the Management Plan without provision for compensation or time-limits for demolition.

The applicant company's complaints were rejected by both levels of the administrative court on the grounds that they were centred on alleged unlawful action by the Government, and as such should have been addressed instead to the Constitutional Court as they concerned the function of State power.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No.1 (right to peaceful enjoyment of possessions), the applicant company complained of an unlawful and unreasonable restriction of its property rights. It also relied in particular on Article 6 § 1 (right to a fair and public hearing within a reasonable time).

The application was lodged with the European Court of Human Rights on 27 May 2013.

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

Ganna **Yudkivska** (Ukraine), *President*,
Paulo **Pinto de Albuquerque** (Portugal),
Egidijus **Kūris** (Lithuania),
Iulia **Motoc** (Romania),
Carlo **Ranzoni** (Liechtenstein),
Georges **Ravarani** (Luxembourg),
Péter **Paczolay** (Hungary),

and also Andrea **Tamietti**, *Deputy Section Registrar.*

Decision of the Court

Article 1 of Protocol No.1

The Court found that the company had been correct in submitting that domestic remedies had been exhausted under both the Civil Code and the Management Plan. Furthermore, it had had a right to expect to be able to use the buildings until the demolition took place.

Nevertheless, the Management Plan of 2012 had not changed the fundamental designation of the company's property, and given the special status of the Curonian Spit National Park and the plans that were already in place, the restrictions on the development of the property were clearly in accordance with national law. The company should therefore have foreseen both the denial of planning permission and the ultimate requirement to demolish the buildings, which was provided for under the development plan of 1994 and remained unchanged. In addition, the authorities' aim had been legitimate, namely the protection of cultural heritage and the honouring of rigorous international obligations to UNESCO. Finally, given the public law context, the authorities' actions were deemed proportionate.

The Court therefore found that a fair balance had been struck between the general interest and the applicant company's individual property rights and held that there had been no violation of Article 1 of Protocol No.1 to the Convention.

Article 6 § 1

The Court noted that the refusal of the administrative courts to examine the complaint in 2012 had left the applicant company with no other opportunity to put its case, given that individual

complaints could not be heard before the Lithuanian Constitutional Court. Moreover, the first-instance court had simply recited the Law on Administrative Proceedings and had not explained its reasoning any further.

However, that mistake had been compensated for in 2012, when the Supreme Administrative Court had examined the applicant company's request and provided a thorough explanation of why it could not hear the case. The Court therefore held that the degree of access afforded to the applicant had been sufficient to secure it the "right to a court" and to obtain a determination of the dispute.

There had therefore been no violation of Article 6 § 1 of the Convention either.

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.