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

SECOND SECTION

DECISION

Application no. 17124/22
Stasys BUJA
against Lithuania

The European Court of Human Rights (Second Section), sitting on 4 February 2025 as a Committee composed of:

Anja Seibert-Fohr*, President*,
Davor Derenčinović,
Gediminas Sagatys*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 17124/22) 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") on 18 March 2022 by a Lithuanian national, Mr Stasys Buja ("the applicant"), who was born in 1959, lives in Lentvaris and was represented by Mr A. Mažeika, a lawyer practising in Vilnius;

the decision to give notice of the application to the Lithuanian Government ("the Government"), represented by their Agent, Mr R. Dzikovič;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's complaint that he was fined for ploughing up a public road that was not properly marked on official documents.

2. In 2017 the applicant signed a "land use agreement" (*žemės panaudos sutartis*) with the owners of a plot of agricultural land in Grendavė, in the Trakai Region, whereby he obtained the right to use the land for free.

3. In September 2020 the Trakai branch of the National Land Service ("the NLS") inspected the plot and found that the applicant had ploughed up a public road of local importance (*vietinės reikšmės kelias*) and had sown

grain in its place. The applicant was present during the inspection and stated that he had ploughed up the road at the request of the plot's owners.

4. The NLS issued the applicant with a fine of 450 euros (EUR) for the administrative offence of unauthorised occupation of land (Article 110 § 1 of the Code of Administrative Offences). That provision states, *inter alia*, that unauthorised occupation of land, forest or water bodies is punishable by a warning or a fine of between EUR 300 and 560. According to the NLS decision, the applicant had disputed that there was a public road on the plot. However, the road in question was marked on the Grendavė land management plans (*Grendavės kadastro vietovės žemės reformos žemėtvarkos projektų planai*) for the years 2000 and 2004, as well as on the schematic plan (*sklypo abrisas*) and the land-use classification table (*žemės naudmenų plotų apskaičiavimo lentelė*), both of which were included in the archive record for the plot (*žemės sklypo archyvinė byla*). Lastly, the applicant himself had admitted to ploughing up the road (see paragraph 3 above).

5. The applicant challenged the fine. He submitted that the road in issue was not marked on the map of the relevant plot of land, available on the NLS website. He also submitted that all of the homesteads built on the given plot could be accessed by other roads and that there was therefore no need for a public road at that location.

6. He acknowledged that the road had been marked on the Grendavė land management plans for 2000 and 2004 (see paragraph 4 above). He argued, however, that those plans had been amended by the newer versions, approved in 2006 and 2008 on which the road in issue had been omitted. He argued that this omission could only mean that the road no longer existed.

7. The applicant stated that he was a farmer and that he understood that the use of land could be subject to various restrictions, including those created by the presence of roads. Accordingly, before ploughing the land he had consulted the cadastral plan (*žemės sklypo planas*), the data available on the website of the Centre of Registers, the municipal boundary map for settlements, villages and elderships in the Trakai Region (*Trakų rajono savivaldybės gyvenamųjų vietovių, kaimų ir seniūnijų ribų nustatymo specialusis planas*), and the municipal boundary map for agricultural areas, crop fields and other fields in the Trakai Region (*Trakų rajono savivaldybės Žemės ūkio naudmenų, pasėlių ir kitų laukų ribų įbraižymo žemėlapis*). However, no such road was marked on any of those documents.

8. He disagreed that he had admitted to having ploughed up a public road (see paragraph 4 above). In his submission, the owners of the plot had built several roads for their personal use; he had believed that he was ploughing up one of those roads rather than an officially recognised public road, and claimed that he had been unaware of the presence of a public road on the relevant plot of land.

9. Lastly, he argued that the only documents on which the road had been marked (see paragraph 4 above) were very old and specific in purpose, and available only on the NLS website; even there, it was difficult to find them. Thus, he argued, he had not known – and could not have known – about their existence. Moreover, even if he had been aware of the documents' existence, special knowledge was required to understand the various specific symbols used in them.

10. On 8 March 2021 the District Court of the Vilnius Region endorsed the decision of the NLS to fine the applicant. It found that the road had been marked on the territorial planning documents referenced in the NLS decision (see paragraph 4 above), and saw no reason to question the NLS's finding that the road in issue had been a public road of local importance, created in order to allow the owners of the neighbouring plots to access their land. The District Court also observed that roads of this type were recorded in the relevant municipality's list of assets and were not in public registers.

11. The District Court emphasised that, as a farmer, the applicant had both the ability to consult the cadastral plan and other publicly available documents, and a responsibility to do so. In case of doubt, he could have requested additional information from the relevant authorities.

12. On 13 May 2021 the Vilnius Regional Court endorsed the District Court's conclusion that the road had been marked on the relevant territorial planning documents (see paragraph 10 above). The Regional Court stated that there was a public road intervening in the plot of land used by the applicant (*įsiterpęs bendro naudojimo kelias*) – a strip of land belonging to the State whose area did not form part of the plot used by the applicant. It also noted that the cadastral plan (see paragraph 7 above) indicated that it had been prepared in accordance with the 2000 Grendavė land management plan. Moreover, the applicant had himself submitted orthophotos from 2015 and 2017 on which the road was clearly visible. The Regional Court further stated that the Grendavė land management plans for 2004, 2006 and 2008 (see paragraph 6 above) were distinct territorial planning documents, the purpose of which was to establish new plots of land and infrastructure, and that the approval of newer plans had had no impact on the status of the road marked on earlier plans.

13. The Regional Court also emphasised that the applicant was a farmer, which meant that he could understand the special symbols used in territorial planning documents (see paragraph 9 above). Moreover, he was familiar with the cadastral plan (see paragraph 7 above) and knew how to access publicly available information in this respect. According to the materials of the file, he had previously contacted the Trakai branch of the NLS seeking to obtain copies of the archive records for other plots of land used by him. Thus, as found by the District Court, he had had both the ability to consult the cadastral plan and other publicly available documents, and a responsibility to do so. In

case of doubt, he could have requested additional information from the relevant authorities (see paragraph 11 above).

14. Nevertheless, the Vilnius Regional Court reduced the fine to EUR 350, finding that there were no aggravating circumstances and thus the fine should be closer to the minimum amount provided by law (see paragraph 4 above).

15. On 20 September 2021 the Supreme Court refused a request lodged by the applicant to reopen the administrative-offence proceedings, finding no indication that the lower courts might have committed a material breach of the law.

16. The applicant complained under Article 6 § 1 of the Convention that, contrary to the principle of legal certainty, he had been fined for ploughing up a road that had not been properly marked on official documents.

THE COURT'S ASSESSMENT

17. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), considers that the applicant's complaint falls to be examined under Article 1 of Protocol No. 1 to the Convention.

18. The Court has no reason to doubt that the fine imposed on the applicant amounted to an interference with his possessions (see *Krayeva v. Ukraine*, no. 72858/13, §§ 19 and 23, 13 January 2022, and the cases cited therein). That interference falls within the scope of the second paragraph of Article 1 of Protocol No. 1, which expressly allows the States to control the use of property to secure the payment of taxes or other contributions or penalties, however, this provision must be construed in the light of the general rule set out in the first sentence of the first paragraph. To be compatible with Article 1 of Protocol No. 1 the measure must be lawful, pursue a legitimate aim and strike a fair balance between the general interest of the community and the individual's fundamental rights (ibid., § 24, and the cases cited therein).

19. The main issue arising in the present case concerns the lawfulness of the impugned interference, in particular, whether Article 110 § 1 of the Code of Administrative Offences, on which the fine was based, was sufficiently foreseeable in its application (see the general principles summarised in *Lekić v. Slovenia* [GC], no. 36480/07, §§ 94-95, 11 December 2018, and the cases cited therein). The Court must therefore examine whether it was foreseeable for the applicant that, by ploughing up the road, he was committing the administrative offence of unauthorised occupation of land under the said Article and was thus liable to pay a fine.

20. The NLS and the domestic courts stated that there was a public road intervening in the plot of land used by the applicant – a strip of land belonging to the State whose area did not form part of the plot used by the applicant; the presence of the road in issue had been marked on the Grendavė land management plans for 2000 and 2004; the cadastral plan indicated that it had been drawn up in accordance with the 2000 land management plan; the road had been marked on the schematic plan and was mentioned in the land-use classification table (both of which were available in the plot archive record); and the road had been visible in the orthophotos submitted by the applicant (see paragraphs 4, 10 and 12 above).

21. The applicant did not dispute the above findings by the domestic authorities. He submitted, however, that the road's presence had not been recorded in other territorial planning documents or in public registers (see paragraph 7 above). He also argued that some of the documents on which the road was marked – in particular the schematic plan and the land-use classification table – had been available only to the NLS and that not even the owners of the plot could have accessed them.

22. The Court is mindful that inconsistencies in the information provided in the various territorial planning documents and public registers carry the risk of creating legal uncertainty for individuals seeking to exercise their property rights, and that legal or administrative decisions taken on the basis of such inconsistent data may fall short of the requirement of foreseeability (see, *mutatis mutandis*, *Jokela v. Finland*, no. 28856/95, § 65, ECHR 2002-IV, and *Krasnodębska-Kazikowska and Łuniewska v. Poland*, no. 26860/11, § 43, 6 October 2015). It reiterates that legal uncertainty is incompatible with the requirements of the rule of law (see *Molla Sali v. Greece* [GC], no. 20452/14, § 153, 19 December 2018, and the cases cited therein).

23. At the same time, the Court reiterates that a law may still satisfy the requirement of foreseeability even if the person concerned has to take appropriate legal advice in order to assess, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. This is particularly true with regard to persons carrying out a professional activity, who are used to having to proceed with a high degree of caution when pursuing their occupation. They can on this account be expected to take special care in assessing the risks that such activity entails (see *Lekić*, cited above, § 97).

24. In the present case, the Court notes, firstly, that the domestic courts established that there was a public road intervening in the plot of land used by the applicant – a strip of land belonging to the State whose area did not form part of the plot used by the applicant (see paragraph 12 above). Furthermore, the courts addressed the applicant's arguments regarding the alleged inconsistencies between the various territorial planning documents, finding, in particular, that the more recent versions of the Grendavė land

management plan had been distinct planning documents which had had no impact on the existing status of the road marked in earlier plans (see paragraph 12 above). Those findings relate to the establishment of facts and interpretation of domestic legal provisions. The applicant did not allege that they were arbitrary or manifestly unreasonable and the Court has no reason to find so either (see, *mutatis mutandis*, *Anheuser-Busch Inc. v. Portugal* [GC], no. 73049/01, § 85, ECHR 2007-I).

25. Moreover, the Court cannot disregard the findings of the domestic courts to the effect that, as a farmer, the applicant had the necessary knowledge to obtain the relevant territorial planning documents and to understand the special symbols used therein (see paragraphs 7, 11 and 13 above). The applicant did not dispute this, nor did he dispute the finding that he had had the option of contacting the relevant authorities in order to access those documents that were not publicly available (as he had done in the past with regard to other plots – see paragraph 13 above) or to remove any doubts regarding the presence of the road in issue.

26. Given the circumstances, the Court finds that the impugned interference had a legal basis consistent with the requirements of Article 1 of Protocol No. 1 to the Convention.

27. As for the aim of the fine, it sought to prevent unauthorised occupation of land, as provided in Article 110 § 1 of the Code of Administrative Offences (see paragraph 4 above). Although the applicant disputed whether the road in issue was needed (see paragraphs 5 and 8 above), the Court, having regard to the findings of the domestic courts (see paragraphs 10 and 12 above) and its limited role when establishing facts (see, among many other authorities, *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I), has no reason to question that the fine given to the applicant pursued a legitimate aim in the general interest.

28. Lastly, the applicant did not allege that the fine of EUR 350 was excessive or disproportionate, and the Court has no reason to find otherwise.

29. In the light of the foregoing, the Court concludes that the presence of the public road on the land which the applicant had the right to use ought to have been sufficiently foreseeable for him from the available official documents and that the fine which he received for ploughing up that road was therefore lawful within the meaning of Article 1 of Protocol No. 1 to the Convention. Nor are there grounds to find that that fine did not pursue a legitimate aim or that it may have been disproportionate. Accordingly, the present application is manifestly ill-founded and must be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 March 2025.

Dorothee von Arnim Deputy Registrar	Anja Seibert-Fohr President