

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

FIFTH SECTION

CASE OF KÜBLER v. GERMANY

(Application no. 32715/06)

JUDGMENT
(Just satisfaction – Strike-out)

STRASBOURG

5 June 2014

FINAL

05/09/2014

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Kübler v. Germany,

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

Mark Villiger, *President,*
Boštjan M. Zupančič,
Ann Power-Forde,
Vincent A. De Gaetano,
André Potocki,
Helena Jäderblom, *judges,*
Bertram Schmitt, ad hoc *judge,*
and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 13 May 2014,

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

PROCEDURE

1. The case originated in an application (no. 32715/06) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a German national, Mr Tobias Kübler ("the applicant"), on 9 August 2006. The applicant was represented by Mr C. Lenz and Mr T. Würtenberger, lawyers practising in Stuttgart. The German Government ("the Government") were represented by their Agents, Mrs A. Wittling-Vogel and Mr H.- J. Behrens, of the Federal Ministry of Justice.

2. Renate Jaeger, the judge elected in respect of Germany, was unable to sit in the case (Rule 28). The Government accordingly appointed Mr B. Schmitt to sit as an *ad hoc* judge.

3. In a judgment delivered on 13 January 2011 ("the principal judgment"), the Court held that there had been a violation of the applicant's right of access to a court under Article 6 § 1 of the Convention since the Baden-Württemberg Ministry of Justice had failed to comply with an interim injunction issued by the Federal Constitutional Court upon the applicant's request to reserve a position as advocate notary (*Kübler v. Germany*, no. 32715/06, §§ 64-66, 13 January 2011).

4. Under Article 41 of the Convention the applicant sought just satisfaction of 1,078,254.70 euros (EUR) in respect of loss of income, a further amount of EUR 150,000.00 per year for the period of time from 2011 until reaching retirement age and compensation for non-pecuniary damage which he assessed at EUR 10,000 per year for the years 2004 to 2010 (see *Kübler*, cited above, § 74).

5. Since the question of the application of Article 41 of the Convention was not ready for decision as regards pecuniary and non-pecuniary damage, the Court reserved it and invited the Government and the applicant to inform the Court about the outcome of the official liability proceedings pending before the Stuttgart Court of Appeal and, in particular, of any agreement they may reach (ibid., § 78, and point 5 of the operative provisions).

6. On 24 October 2013 the applicant was appointed to a post of advocate notary in the Stuttgart Court District.

7. On 18 February 2014 the Government informed the Court that on 23 January 2014 an agreement on compensation had been concluded between the applicant and the Land of Baden-Württemberg in the proceedings pending before the Stuttgart Regional Court. By virtue of this agreement, the Land of Baden Württemberg undertook to pay to the applicant the amount of EUR 805,000 in regard of loss of income, EUR 7,500 for expenses incurred by vocational training, EUR 5,000 for further expenses in the proceedings before the Court and EUR 65,000 in regard of non-pecuniary damage. In return, the applicant declared his consent that the case pending before the Court is struck out of the Court's list of cases. He further declared that he did not have any further claims vis-à-vis the Land of Baden-Württemberg or the Federal Republic of Germany in relation to the subject matter of his application submitted to the Court.

8. To that effect the Government submitted to the Court a copy of the decision of the Stuttgart Regional Court (file no. 15 O 302/12) certifying the conclusion of the friendly settlement.

THE LAW

9. Following its principal judgment the Court has been informed that a friendly settlement has been reached between the Government and the applicant with respect to the latter's claims under Article 41 of the Convention.

Having regard to its terms, the Court finds the agreement equitable within the meaning of Rule 75 § 4 of the Rules of Court and that it is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court). Consequently, it takes formal note of the agreement and considers it appropriate to strike the remainder of the case out of the list pursuant to that provision.

10. Accordingly, the remainder of the case should be struck out of the list.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

Decides to strike the remainder of the application out of its list of cases.

Done in English, and notified in writing on 5 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Mark Villiger
President