

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

SECOND SECTION

DECISION

Application no. 53788/08
Renata CYTACKA and others
against Lithuania

The European Court of Human Rights (Second Section), sitting on 10 July 2012 as a Chamber composed of:
Françoise Tulkens, *President,*
Danutė Jočienė,
Isabelle Berro-Lefèvre,
András Sajó,
Işıl Karakaş,
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*
and Françoise Elens-Passos, *Deputy Registrar,*
Having regard to the above application lodged on 15 October 2008,
Having deliberated, decides as follows:

THE FACTS

The first applicant, Ms Renata Cytacka, is a Lithuanian national and lives in Jašiūnai, situated in Šalčininkai Region. Six other applicants, whose names appear in the annex, are members of the school council of the "Vilnius Region Lavoriškės Secondary School".

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

On 9 February 2007 the Council of Vilnius District Municipality (a territorial public law entity, hereinafter "the municipality") allowed a public

school that was mostly attended by members of a Polish minority to be named after a famous historical figure and named it "Vilnius Region Lavoriškės *Emilii Plater* Secondary School".

Subsequently the Government's Representative in the Vilnius Region brought an action against the municipality for the annulment of the decision, maintaining that the Polish spelling of the name as "*Emilii Plater*" contravened the Law on State Language and grammar rules of Lithuanian language, which is the only official language in the country. For official names the Lithuanian spelling *"Emilijos Pliaterytės"* should have been used instead.

On 22 June 2007 the Vilnius Regional Administrative Court allowed the Government's Representative's action. Even if the spelling "*Emilii Plater*" was preferred by the Polish minorities living in the area, this did not remove the municipality's obligation to comply with the legal requirements for the official naming of the public school.

On 15 April 2008, by a final decision, the Supreme Administrative Court dismissed the municipality's appeal. The court concluded that in a case where the name of a historical figure was being used in the official name of a school (organisation/company), the rules of Lithuanian grammar applied.

Ms Cytacka, who was a staff member of the municipality, participated in the court hearing as a representative of this public institution before the courts.

As for the remaining six applicants, they have not brought any claims at the domestic level. Besides, no application signed by these applicants in their own name has been lodged with the Court, nor has any authority empowering Ms Cytacka to represent them before the Court been submitted. Their names were notified to the Court in a letter of 28 August 2009.

B. Relevant domestic law

Article 22 of the Law on Administrative Proceedings (LAP) provides that persons who consider that their rights or interests protected by law have been infringed have a right to lodge a complaint with the administrative court.

Under Article 48 of the LAP, parties to the administrative proceedings shall also be the interested third parties, that is, those persons whose rights and obligations may be affected by a court's decision in the case.

According to Articles 53 and 82 of the LAP, the parties to the proceedings (including the interested third parties) have a right, *inter alia*, to submit their observations, to oppose to the observations of the other parties, to submit requests, to present their statements at the hearing without a time-limit as to the length of their speeches.

COMPLAINTS

The applicants complained under Articles 8 and 10 in conjunction with Article 14 of the Convention that their right to respect for private and family life and their right to freedom of expression were breached by the inability to have the Polish spelling in the school's official name.

THE LAW

The Court observes that the applicants did not claim that there was any limitation on the children's right to attend the school or that there were any restrictions on the right to education as prescribed by Article 2 of Protocol No. 1 to the Convention. Nor was any practical inconvenience related to the use of the school's name if spelled in Lithuanian ever invoked. The applicants themselves personally were not prevented from using the form "*Emilii Plater*" as spelled in the Polish language.

A. The first applicant

The Court notes that Article 35 § 1 of the Convention requires applicants to have normal recourse to remedies which are available and sufficient to afford redress in respect of the alleged breaches.

The Court observes at the outset that the measure at issue in the present case related to the official spelling of the name of a public school and arose out of a dispute between two public authorities. It was not directed at the first applicant and did not affect her directly. Moreover, although she participated in the proceedings before the administrative courts, she did so merely as a representative of the Council of Vilnius District Municipality, a territorial public law entity, and acted not in her private capacity. Thus, she was not a party to those proceedings, which were decisive for the rights and obligations of the municipality, but not for those of Ms Cytacka (see *Demirbaş and Others v. Turkey (dec.)*, nos. 1093/08, 301/08, 303/08, 306/08, 309/08, 378/08, 382/08, 410/08, 421/08, 773/08, 883/08, 1023/08, 1024/08, 1036/08, 1260/08, 1353/08, 1391/08, 1403/08 and 2278/08, 9 November 2010). Consequently, she cannot qualify to claim to be a victim of a violation in that respect.

In so far as the first applicant might be understood as complaining that the measure nevertheless affects her as a member of the school council, the Court notes that Articles 22 and 48 of the Law on Administrative Proceedings guarantee a right to a person to initiate separate proceedings or to participate in the ongoing proceedings as an interested third party. Ms Cytacka, being a representative of the municipality, was aware of the ongoing administrative proceedings. It should also be noted that the applicant was not representing the municipality before the court of first instance but decided to do so before the appellate court. However, she has

failed to show that she ever lodged a request to be involved in those proceedings as a third party or that she lodged a separate complaint before the national courts or authorities in her own name, claiming to be a victim of the alleged violation of the rights under Article 8, 10 and 14 of the Convention.

Consequently, even assuming that the decision concerning the official spelling of the school's name might raise an issue under any of these provisions of the Convention, the Court considers that she has failed to exhaust domestic remedies and the application must be declared inadmissible for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention.

B. The remaining six applicants

The Court reiterates that under Article 34 of the Convention it may receive applications from individuals and others "claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto".

It has already observed that six applicants, whose names appear in the Annex, have not signed the application form on their own behalf. Ms Cytacka, who signed the application form, has not submitted to the Court any authority empowering her to represent other applicants, or any other document confirming their wish to be applicants in the present case. Nor has Ms Cytacka submitted any authority to represent the school's council.

It should also be noted that the Court has no information that any of the applicants ever lodged a complaint or a request to the authorities or the courts arguing that their rights mentioned in Articles 8, 10 and 14 of the Convention were in any way affected by the refusal to the municipality to adopt the public school's name, part of which was spelled in the Polish form.

In the view of the above, the Court considers that this warrants the conclusion that these six applicants have not validly lodged any application with the Court (see *Post v. the Netherlands* (dec.), no. 21727/08, 20 January 2009).

Consequently, the application must be rejected for being incompatible *ratione personae*, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President

ANNEX

1. Teresa Grabowska
2. Irena Grablewska
3. Lilia Palewicz
4. Iwona Juckiewicz
5. Aneta Wysocka
6. Krystyna Krewska