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

FIFTH SECTION

DECISION

Application no. 19076/24
María GIL SANJUAN
against Spain

The European Court of Human Rights (Fifth Section), sitting on 26 June 2025 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
María Elósegui,
Diana Sârcu*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 19076/24) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 28 June 2024 by a Spanish national, Ms María Gil Sanjuan, who was born in 1937 and lives in Murcia ("the applicant");

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the domestic courts' dismissal of the applicant's appeal on points of law, lodged after the domestic proceedings were reopened following a judgment from the European Court of Human Rights ("the Court") finding that the initial inadmissibility of that appeal by the Spanish Supreme Court had been unforeseeable and too formalistic, in violation of the right to access to a court under Article 6 § 1 of the Convention in its civil limb (see *Gil Sanjuan v. Spain*, no. 48297/15, 26 May 2020). The applicant complains that her appeal not only should have been declared admissible, but should have also been upheld, and that the judgment which dismissed the appeal had been arbitrary, had not duly assessed the available evidence, and had not provided sufficient reasoning.

2. The facts of the case can be summarised as follows.

3. On 27 September 2007 a decision of the Ministry of the Environment approving the delineation of the coastal area (*zona marítimo terrestre*) in accordance with the Coasts Act (*Ley de Costas*) affected a plot of land owned by the applicant. In response, she instituted judicial proceedings. On 8 October 2010 the *Audiencia Nacional* ruled against the applicant, who submitted a notice of appeal (*escrito de preparación*) on points of law – a requirement prior to lodging an appeal on points of law (*recurso de casación*) with the Supreme Court. The *Audiencia Nacional* deemed the appeal prepared on 11 November 2010 and referred the case file to the Supreme Court. On 4 January 2011 the applicant lodged an appeal on points of law with the Supreme Court. However, by a decision of 9 February 2012 the Supreme Court declared the appeal inadmissible owing to non-compliance of the notice of appeal with the formal requirements set forth in section 93(2)(a) of Law 29/1998 regulating judicial proceedings in administrative matters (*Ley reguladora de la Jurisdicción Contencioso-administrativa*). In the court's view, the notice of appeal had only announced the grounds of appeal but had failed to make any reference to the provisions or case-law that had allegedly been infringed or to the substance of the breaches of legal rules or case-law to be complained of in the appeal on points of law. The court stated that such references were required in the present case, in line with the case-law of the Supreme Court as clearly set out in that court's decision of 10 February 2011, followed by subsequent decisions such as that of 26 May 2011. The applicant lodged further appeals with the domestic courts, to no avail (for further details, see *Gil Sanjuán*, cited above, §§ 4-12).

4. The applicant lodged an application with the Court on 21 September 2015. She complained that her notice of appeal had complied with the requirements set forth in Law 29/1998 as interpreted in the case-law existing at the time she had submitted it. Accordingly, the decision to declare her appeal on points of law inadmissible had constituted a retroactive application of a new interpretation of a procedural requirement not provided for by law but established by the Supreme Court's decision of 10 February 2011 (after her appeal had been submitted) – without having given her the opportunity to remedy any possible deficiencies which might have arisen as a result of the new criteria – and had breached her right of access to a court as provided in Article 6 § 1 of the Convention.

5. On 26 May 2020 the Court found that the Supreme Court's decision declaring the applicant's appeal on points of law inadmissible amounted to excessive formalism involving an unreasonable and particularly strict application of procedural formalities unjustifiably restricting her access to its jurisdiction and concluded that there had been a violation of Article 6 § 1 of the Convention. With respect to Article 41 of the Convention, the Court held that the most appropriate form of redress in the applicant's case would be the reopening of the proceedings, should the applicant so request (see *Gil*

Sanjuán, cited above, § 51). The applicant was awarded 9,600 euros (EUR) in respect of non-pecuniary damage, and EUR 10,000 for costs and expenses.

6. In light of the Court's judgment, the applicant requested the reopening of the domestic proceedings. In particular, she requested the Supreme Court to declare null and void its decision of 9 February 2012 whereby her appeal on points of law had been declared inadmissible. The request was granted by a judgment from the Supreme Court on 3 March 2020.

7. The applicant requested to be allowed to submit a new appeal on points of law. By a decision of 10 June 2022, the Supreme Court held that the reopening of the proceedings entailed that it should reconsider the applicant's appeal on points of law as submitted on 4 January 2011, and not a new one. However, in light of the circumstances of the case and the time elapsed since, it allowed the applicant to submit, within ten days, any new allegations she found relevant in light of the relevant case-law developments which occurred between 2011 and 2022. The applicant submitted her allegations.

8. On 12 December 2022 the Supreme Court adopted a judgment by which it dismissed the applicant's appeal on points of law against the ruling of the *Audiencia Nacional* of 8 October 2010. That judgment had, in turn, dismissed the applicant's appeal against the decision of the Ministry of the Environment of 27 September 2007 whereby the coastal area had been delineated to the detriment of the interests of the applicant (see paragraph 3 above).

The Supreme Court's judgment considered, in essence, that the applicant's arguments with regard to the alleged expiry of the limitation period for the Ministry to have carried out the delineation had to be dismissed. The Supreme Court also dismissed the applicant's allegations that the *Audiencia Nacional*'s judgment had lacked sufficient reasoning. It recognised that while such reasoning could be considered succinct, the impugned judgment had sufficiently addressed the applicant's allegations, and provided sufficient reasoning as to why such allegations had to be dismissed, and the reasons behind the delineation of the coast by the Ministry of the Environment, in spite of the expert reports submitted by the applicant to challenge such delineation. In light of the reasoning provided by the *Audiencia Nacional*¸ the Supreme Court concluded that it could not be established that the judgment had ignored the evidence submitted by the appellant. The impugned judgment had taken that evidence into consideration but had found that there were other documents in the file which had been more relevant and reliable in the case at hand. The Supreme Court reminded as well that its role within proceedings of appeal on points of law was not to reassess the evidence submitted by the parties, but to ensure that there was no arbitrariness and lack of sufficient reasoning in the previous instance courts' rulings.

With regard to the applicant's allegations that the Coasts Act had been wrongly applied to her plot of land by the decision of the Ministry of the Environment of 27 September 2007, the Supreme Court referred to its

judgment of 13 December 2012 (no. 391/2011), where it had already upheld the lawfulness of that ministerial decision, and which was a valid and pertinent precedent for it to conclude again that the Coasts Act had been observed in the applicant's case.

9. On 27 January 2023 the applicant lodged a motion for annulment of the above judgment, in which she complained of the alleged violation of her rights to fair proceedings, because the Supreme Court's reasoning was, in her view, insufficient, erroneous, illogical, and arbitrary in light of the applicable law and the relevant case-law and infringed her right not to be discriminated against. She also complained that the Supreme Court had not duly executed the Court's judgment of 26 May 2020. The motion was dismissed by the Supreme Court on 16 May 2023, on the grounds that the applicant was, in reality, trying to obtain a different legal assessment of her claim, not complaining about the alleged violation of her rights; a request which exceeded the scope of a motion for annulment against a judgment handed down after an appeal on points of law.

10. The applicant then lodged an *amparo* appeal with the Constitutional Court, reiterating the complaints about the alleged violation of her rights, as explained above. Her appeal was declared inadmissible on 5 March 2024, based on its lack of sufficient constitutional relevance.

11. The applicant complained under Articles 6 § 1 of the Convention of a violation of her right to fair proceedings, for alleged lack of sufficient reasoning of the domestic judicial decisions and the arbitrariness of the criteria used by the domestic court in her case. She claimed that the Supreme Court acknowledged that the judgment of 8 October 2010 had given scarce reasoning, notwithstanding which it considered that it had been sufficient, and could therefore be confirmed. The Supreme Court had not, in the applicant's submissions, taken into account some of her new arguments, which were relevant in light of the legislative and case-law developments which occurred between 2011 and 2022. She furthermore alleged that, even being aware of the nature of a motion on points of law, the Supreme Court should have acted as a court of second instance and carry out a fresh assessment of the evidence, in the light of the Court's judgment of 26 May 2020.

She also complained under Article 13 of the Convention of a violation of her right to effective remedies.

Lastly, the applicant complained under Article 8 of the Convention, Article 1 of Protocol No. 1, and Articles 14 and 1 of Protocol No. 12 as regards the substantive aspects of her original complaint. She considered, more specifically, that the delineation of the coastal area was an interference with her right to respect for her home, as well as her right to the peaceful enjoyment of her possessions. She claimed that having been deprived of part of her plot of land without having been compensated for it, she was subjected to discrimination.

12. In its role under Article 46 § 2 of the Convention to supervise the execution of judgments of the Court, the Committee of Ministers of the Council of Europe examined the measures proposed and taken by Spain to execute the judgment in *Gil Sanjuán*, cited above. The Committee of Ministers, by means of the Resolution CM/ResDH(2022)278 adopted on 19 October 2022, and in view of the individual and general measures adopted by the respondent State, declared that it had exercised its functions under Article 46 § 2 and decided to close the examination of the case.

THE COURT'S ASSESSMENT

13. The Court notes, at the outset, that the present case does not concern the correct execution of the first Court's judgment, a matter which falls under the competence assigned to the Committee of Ministers by Article 46 of the Convention (see paragraph 12 above). The Court is now faced with a new issue concerning the fairness of the proceedings after they were reopened (see namely, *Moreira Ferreira v. Portugal* (no. 2) [GC], no. 19867/12, §§ 54-58, 11 July 2017).

14. In this regard, the applicant complains of the alleged violation of her rights under the Convention by the Supreme Court judgment of 12 December 2022, and the rulings dismissing her subsequent appeals.

15. As regards the applicant's complaint under Article 6 of the Convention, the Court reiterates that it is not its task to take the place of the domestic courts. It is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court is not a court of appeal from the national courts and it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018, with further references). Normally, issues such as the weight attached by the national courts to given items of evidence or to findings or assessments at issue before them for consideration are not for the Court to review. The Court should not act as a court of fourth instance and will not therefore question under Article 6 § 1 the national courts' assessment, unless their findings can be regarded as arbitrary or manifestly unreasonable (see *López Ribalda and Others v. Spain* [GC], nos. 1874/13 and 8567/13, § 149, 17 October 2019, with further references).

16. The Court observes that the domestic courts granted the applicant's request to have the proceedings opened after its judgment was handed down (see paragraph 7 above). The Court's judgment of 26 May 2020 declared that the applicant should have been given the opportunity of having her appeal on points of law examined by the Supreme Court, and that the most appropriate form of redress would be the reopening of the proceedings (see *Gil Sanjuán*,

cited above, § 51). The Court did not, and could not, in any way imply that the Spanish Supreme Court should uphold the applicant's appeal on points of law.

17. Turning to the impugned judgment, the Court observes that the merits of her appeal on points of law were duly examined in the course of an adversarial procedure, where the Supreme Court examined and decided the applicant's complaint with regard to the delineation of her property under the domestic coastal legislation. The Court notes that the applicant's complaint concerning the outcome of the domestic proceedings is essentially of a fourth-instance nature. For the Court, there is nothing in the case file that would suggest that the findings of the domestic courts – in particular, the Supreme Court –, based on an analysis of all the relevant circumstances and several expert reports, were arbitrary or manifestly unreasonable.

18. Accordingly, in the present case the Court cannot substitute its view for that of the domestic courts with regard to the public nature of the land in question.

19. In the light of the foregoing, the Court finds that the complaint under Article 6 of the Convention should be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

20. With regard to her complaint under Article 13 of the Convention, the Court notes that Article 6 § 1 of the Convention constitutes a *lex specialis* in relation to Article 13, the requirements of which are less strict than, and absorb, those of Article 6 § 1 (see *Kudła v. Poland* [GC], no. 30210/96, § 146, ECHR 2000-XI, with further references; see also *Baka v. Hungary* [GC], no. 20261/12, § 181, 23 June 2016). As a general rule, Article 13 is not applicable where the alleged violation of the Convention has taken place in the context of judicial proceedings (see *Menesheva v. Russia*, no. 59261/00, § 105, ECHR 2006-III; *Ferre Gisbert v. Spain*, no. 39590/05, § 39, 13 October 2009; and *Pizzetti v. Italy*, no. 12444/86, Commission's report of 10 December 1991, § 41). Therefore, there is no need to also examine the complaint under Article 13.

21. The Court notes that the applicant's complaint brought under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning the alleged violation of her right to respect for her home, as well as her right to the peaceful enjoyment of her possessions, were not put forward by the applicant before the domestic courts. It follows that in so far as this complaint is concerned, domestic remedies have not been exhausted as required by Article 35 § 1 of the Convention. These complaints must therefore be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

22. Lastly, the applicant complained that she had been discriminated against because of the inobservance of new case-law which was relevant to her case and had not been taken into account by the Supreme Court. The Court notes that the applicant has failed to substantiate her complaint that she had

suffered any discriminatory treatment under Article 14 of the Convention with regard to any other conventional right, or under Article 1 of Protocol No. 12 of the Convention. This complaint is therefore manifestly ill-founded.

It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 17 July 2025.

Martina Keller Deputy Registrar	Stéphanie Mourou-Vikström President