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

SECOND SECTION

DECISION

Application no. 44309/19
Laimutė KEDIENĖ
against Lithuania

The European Court of Human Rights (Second Section), sitting on 27 September 2022 as a Committee composed of:

Branko Lubarda*, President,*
Jovan Ilievski*,*
Diana Sârcu*, judges,*

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 44309/19) 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 14 August 2019 by a Lithuanian national, Ms Laimutė Kedienė, who was born in 1943 and lives in Teleičiai village ("the applicant");

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints notably under Article 6 of the Convention about the length and fairness of the criminal proceedings in which she was convicted for sexual molestation of a minor. The applicant's conviction was a follow-up to high-profile criminal and custody-related proceedings, which had been examined by the Court in the judgment of *Stankūnaitė v. Lithuania*, no. 67068/11, 29 October 2019. The applicant in the present case is the mother of the late D.K. (see ibid.).

2. By a judgment of 15 February 2018 the Kaunas District Court found the applicant guilty of sexual molestation of a minor punishable under Article 153 of the Criminal Code. The court established that between July 2009 and July 2010 the applicant had repeatedly used vulgar and amoral vocabulary and expressions containing sexual connotation when talking to her granddaughter D.S. in her home in the township of Garliava. Such actions could have raised the child's premature interest in sexual functions, distorted

understanding of sexual relations and amounted to intellectual molestation. The applicant was sentenced to restriction of liberty for one year and six months (she was to stay at her home between 11 p.m. and 6 a.m.) and ordered to undergo a programme for behaviour improvement. She was also ordered to pay compensation to D.S. for non-pecuniary damage.

3. On 9 November 2018 the Vilnius Regional Court upheld the applicant's conviction.

4. By a final ruling of 6 June 2019 the Supreme Court dismissed the applicant's appeal on points of law as unfounded. The court noted that the applicant had not denied having used the vocabulary in question; she merely sought to justify her behaviour by the circumstances of the so-called paedophilia scandal (see *Stankūnaitė*, cited above). However, those circumstances had already been examined by previous court decisions which ruled out paedophilia-related accusations. The appellate court had also correctly examined the evidence, including testimony by the child's mother, and had correctly applied the criminal law in the applicant's case.

5. In reply to the applicant's complaint about the length of the criminal proceedings the Supreme Court noted that the pre-trial investigation in connection with the criminal charge under Article 153 of the Criminal Code had been opened in June 2014. The bill of indictment, comprising twelve volumes of materials, had been transferred to the first instance court in September 2015. During the proceedings at the first instance court, which lasted two years and four months, court hearings were scheduled frequently, yet most of the postponements had taken place due to the applicant's, her lawyers' or other co-accused's failure to attend. On appeal, the case was decided within approximately five months only. Overall, taking into account the complexity and volume of the case, the fact that the applicant had not been detained and that she had not been sentenced to imprisonment and thus received a mild sentence, there was no reason to grant her request for an even milder punishment.

THE COURT'S ASSESSMENT

6. The applicant complained about the duration of the criminal proceedings. She stated that, from the moment she was charged, those proceedings had lasted five years, for three court instances.

7. In criminal matters, the "reasonable time" referred to in Article 6 § 1 begins to run as soon as a person is "charged". A "criminal charge" exists from the moment that an individual is officially notified by the competent authority of an allegation that he has committed a criminal offence, or from the point at which his situation has been substantially affected by actions taken by the authorities as a result of a suspicion against him (see *Kalēja v. Latvia*, no. 22059/08, § 36, 5 October 2017). This period covers the whole

of the proceedings in question, including appeal proceedings (see *König v. Germany*, 28 June 1978, § 98, Series A no. 27).

8. The reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

9. The Court observes that the criminal proceedings against the applicant had been the follow-up of other complex criminal and custody proceedings which the court has already examined (see paragraph 1 above). That being so, and in the light of the reasons explained by the Supreme Court (see paragraph 5 above), the Court does not find that the duration of the criminal proceedings against the applicant had been excessive and failed to comply with the requirement of reasonableness.

10. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

11. Referring to Articles 6 and 7 of the Convention, the applicant further complained about the assessment of evidence and the application of criminal law provisions by the domestic courts. She asseverated that the evidence had been insufficient to find her guilty, that she had not had a fair trial, and that she should have received a more lenient sentence.

12. The Court finds that the applicant in essence complained about the fairness of her criminal proceedings; her complaint falls to be examined under Article 6 alone. In the light of all the material in its possession and in so far as the matters complained of are within its competence, the Court finds that the applicant's complaints do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention.

13. Consequently, this part of the application must also 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 20 October 2022.

Dorothee von Arnim Deputy Registrar	Branko Lubarda President