



Lithuanian courts' review of disciplinary proceedings against a prosecutor were not prejudiced by political and media involvement

In today's **Chamber judgment**¹ in the case of [Čivinskaitė v. Lithuania](#) (application no. 21218/12) the European Court of Human Rights held, by six votes to one, that there had been:

no violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights.

The case concerned disciplinary proceedings against the applicant, a senior prosecutor, for failing to carry out her duties properly in a high-profile investigation into the alleged sexual abuse of a child. The proceedings led to her demotion. Her case before the European Court dealt in particular with her complaint that the administrative court decisions dismissing her appeals against her demotion were not fair because of political and media interference in her case.

The Court found no grounds to believe that the independence and impartiality of the administrative courts had been compromised by the public statements of State officials and politicians or by media reporting on the case. Nor was there anything in the case file to make the Court doubt the overall fairness of the proceedings in the Lithuanian courts.

Principal facts

The applicant, Rita Čivinskaitė, is a Lithuanian national who was born in 1965 and lives in Skriaudžiai, in the Prienai Region (Lithuania).

A 2008-2009 investigation into allegations of sexual molestation, with the possible involvement of the child's mother and public officials, amid the murder of two of the suspects and the deaths of another suspect and of the child's father, triggered a wide-scale scandal. The investigation attracted considerable attention from the public, politicians and the media because of the way in which it had been handled by the law-enforcement authorities.

In particular, between October 2009 and March 2010 the President of Lithuania and high-ranking politicians publicly criticised the pre-trial investigation, calling for those who were responsible for its shortcomings to be held to account and harshly punished.

The Prosecutor General's Office carried out an inquiry into the investigation, finding multiple shortcomings in the work of the police and prosecutors, including the Kaunas City District Prosecutor's Office ("the KCDPO") where the applicant was Deputy Chief Prosecutor. Following disciplinary proceedings, the applicant was demoted at the end of October 2009.

A Parliamentary committee of inquiry found in a report in January 2010 that the KCDPO had "obviously procrastinated" in the pre-trial investigation and that the applicant had been one of the officials responsible. The findings were based on documents provided by the authorities, including the Prosecutor General's Office. Several recommendations were made for improvements to the functioning of prosecutors' offices and child protection authorities. The Prosecutor General himself resigned in February 2010.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

The applicant appealed to the administrative courts about the disciplinary penalty. However, the courts dismissed her appeals, ultimately in October 2011, without addressing her complaints that political interference and the media coverage on the case had influenced the decision to discipline her. The courts found that she had failed to properly supervise the investigator in charge of the case and to ensure that essential investigative measures were taken promptly. They also upheld her demotion, finding that it had been proportionate to the offences committed.

Complaints, procedure and composition of the Court

Relying in particular on Article 6 § 1 (right to a fair hearing), Ms Čivinskaitė complained that the disciplinary proceedings against her and the administrative court decisions had not been fair because of the political and media involvement in her case.

The application was lodged with the European Court of Human Rights on 2 April 2012.

Judgment was given by a Chamber of seven judges, composed as follows:

Jon Fridrik **Kjølbro** (Denmark), *President*,
Marko **Bošnjak** (Slovenia),
Ivana **Jelić** (Montenegro),
Arnfinn **Bårdsen** (Norway),
Darian **Pavli** (Albania),
Saadet **Yüksel** (Turkey) and,
Peeter **Roosma** (Estonia), *ad hoc Judge*,

and also Hasan **Bakırcı**, *Deputy Section Registrar*.

Decision of the Court

The Court examined in particular whether the independence and impartiality of the administrative courts had been affected by the political and media involvement in the applicant's case.

It emphasised that a fair hearing could still be held after intense adverse publicity. In a democracy, high-profile cases would inevitably attract comment by the media, but that did not mean that it would inevitably prejudice a defendant's right to a fair hearing. In such cases, the Court had to examine whether there were sufficient safeguards to ensure that the proceedings as a whole were fair. It also noted that it would require cogent evidence showing that concerns about the impartiality of judges were objectively justified before any breach of Article 6 § 1 could be found.

As for the political involvement in the case, the Court found that neither the statements in the Parliamentary Inquiry report concerning the procrastination in the investigation nor those made by high-ranking politicians had given cause to doubt the independence and impartiality of the administrative courts in the applicant's case. Overall, the statements had been of a general nature and had not held any specific KCDPO official liable for the shortcomings in the investigation.

While one statement in the Parliamentary report had specifically referred to the applicant as one of those responsible for the inaction in the investigation, the Parliamentary Committee had made it clear that that finding was based on documents provided by the Prosecutor General's Office. It had made no assessment of its own on the accuracy of that finding, neither endorsing nor criticising it.

Furthermore, while the President of Lithuania had called for harsh penalties for the Kaunas prosecutors after the conclusion of the disciplinary proceedings, the administrative courts had not ultimately given the applicant a harsher penalty, but had upheld the decision taken by the Prosecutor General to demote her, finding it to be proportionate.

Moreover, the Court accepted that politicians wishing to react to the shortcomings in the work of the law enforcement authorities and to keep the public informed about the measures taken to address them had been justified by the circumstances of the case, involving a large-scale scandal.

Nor could the media be blamed for their interest in the case, in view of the seriousness and nature of the criminal complaints and the apparent inability of the authorities to adequately address them.

As to the alleged media campaign, the Court found no cogent evidence to suggest that the judges who had assessed the arguments put forward by the applicant had been influenced by any of the publications in the press. The language used in the media reports with regard to the applicant while the court proceedings against her were ongoing had not been such as to create the perception of her being responsible for any specific offences. Indeed, the case had been decided by professional judges who had been less likely than a jury to be influenced by the press campaign on account of their professional training and experience. In addition, domestic courts at two levels of jurisdiction had issued well-reasoned decisions, upholding some of the applicant's complaints.

Lastly, although the administrative courts had not explicitly examined the applicant's complaint about political and media interference prejudicing the proceedings, the Court found that she had formulated that argument in a rather general way and that, in any case, the courts had given detailed reasons justifying the decision to demote her. The Court was therefore prepared to accept that the courts' silence with regard to her complaint could reasonably be construed as an implied rejection. It therefore found that there was nothing in the case file to make it doubt the overall fairness of the proceedings before the administrative courts.

In conclusion, there had been no violation of Article 6 § 1 of the Convention.

Separate opinion

Judge Bošnjak expressed a dissenting opinion, which is annexed to the judgment.

The judgment is available only in English.

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.