



Doctor's dismissal over euthanasia accusations justified

In today's **Chamber** judgment¹ in the case of [Gawlik v. Liechtenstein](#) (application no. 23922/19) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 10 (freedom of expression) of the European Convention on Human Rights

The case concerned a doctor who raised suspicions that euthanasia had been taking place in his hospital. In doing so, he went outside the hospital complaints structure and lodged a criminal complaint. The affair attracted significant media attention.

The Court found in particular that although the applicant had not acted with improper motives, he had been negligent in not verifying information. His dismissal had thus been justified given the effect on the hospital's and another staff member's reputations. The Court concluded that the interference with the applicant's rights had been proportionate.

Principal facts

The applicant, Lothar Gawlik, is a German national who was born in 1967 and lives in Kassel (Germany).

The applicant, a general and internal medicine specialist, was from 1 June 2013 the deputy chief physician of the department for internal medicine at the Liechtenstein National Hospital. He came across information showing that four patients had died there following the administration by a Dr H. of morphine. He concluded that the deaths had been euthanasia.

The applicant on 11 September 2014 complained to the prosecutor's office (he did not go through the hospital's complaints system first). The police took several investigative steps. Much media attention followed.

An internal report was drawn up, endorsing the treatment given by H., later endorsed by an external report. The applicant was suspended on 26 September 2014. On 17 October 2014 he was dismissed without notice, with failure to go through the hospital's internal complaints system cited.

In 2014 a criminal investigation into H. was opened and then discontinued. In 2016, criminal proceedings against the applicant were also discontinued.

The applicant took an action against the hospital, seeking 600,000 Swiss francs (CHF) in damages. In 2017 that action was dismissed, the court holding that the hospital could no longer be expected to employ the applicant in good faith. That judgment was overturned on appeal, with CHF 125,000 being awarded to the applicant. However, the Supreme Court quashed the appellate judgment in 2018.

The applicant lodged a constitutional complaint, citing Article 10 (freedom of expression) of the European Convention on Human Rights among other provisions. The Constitutional Court ruled that the right to freedom of expression applied in the relationship between the applicant and the Liechtenstein National Hospital. Although the Constitutional Court accepted that the applicant

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.

regarded himself as a whistle-blower, it considered that he had not tested his suspicions before going public. The court dismissed the complaint.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression) of the European Convention, the applicant complained that his dismissal without notice from his post for lodging a criminal complaint had breached his rights.

The application was lodged with the European Court of Human Rights on 25 April 2019.

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

Jon Fridrik **Kjølbro** (Denmark), *President*,
Marko **Bošnjak** (Slovenia),
Aleš **Pejchal** (the Czech Republic),
Egidijus **Kūris** (Lithuania),
Branko **Lubarda** (Serbia),
Carlo **Ranzoni** (Liechtenstein),
Pauliine **Koskelo** (Finland),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

The Court reiterated that an interference with freedom of expression must be, among other things, “necessary in a democratic society”, and proportionate to the legitimate aim pursued.

The Court agreed with the domestic courts that the applicant should have verified the information better, considering the seriousness of the allegations, by cross-referencing with paper medical files. The Court did not rule on whether the applicant had been obliged to raise his suspicions inhouse first, but it did determine that the information he had disclosed was of considerable public interest. The Court took note of the severity of dismissing the applicant, considering that it must have had a chilling effect.

The Court noted that the applicant had not acted with improper motives. Nevertheless, the applicant’s dismissal had been justified, especially given the effect on the hospital’s and another staff member’s reputations. The Court concluded that the interference with the applicant’s rights had been proportionate.

There had accordingly been no violation of Article 10 of the Convention.

The judgment is available only in English.

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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.