

CASE OF JGK STATYBA LTD AND GUSELNIKOVAS v. LITHUANIA – Application no. 3330/12 (2013)

In the Chamber's judgment in the case of **JGK STATYBA LTD AND GUSELNIKOVAS v. LITHUANIA (2013)** the European Court of Human Rights held, unanimously, that there had been:

- a Violation of Article 6 § 1 of the Convention (Right to a fair trial);
- a Violation of Article 1 of Protocol No. 1 to the Convention (Protection of property)

I. Principal Facts

The applicants are JGK Statyba Ltd, a private construction company registered in Lithuania, and Jurijus Guselnikovas, a Lithuanian national. Mr Guselnikovas is a shareholder and a member of the board of JGK Statyba Ltd.

The case concerned the length of two sets of civil proceedings relating to the ownership of two houses and restriction of the company's property rights by the domestic courts which had seized those houses in order to secure satisfaction of civil claims lodged by private individuals.

The applicant company, whose main activity is construction and real estate, was prohibited for over ten years from selling or transferring the disputed property until the cases had been examined. Initially, a final and binding court decision of 1995 had recognised the company's ownership of the same houses and dismissed the action by several private individuals for attribution of ownership rights. In July 1996 the company lodged a civil claim for the eviction of one of the unsuccessful claimants from one of the houses.

The courts eventually allowed the company's claim and dismissed the counterclaim in a decision ultimately upheld in February 2010, and the house was returned to the company in July 2010. The second set of proceedings was brought in June 1996 by another unsuccessful claimant, seeking acknowledgment of his ownership rights to one of the houses. The latter claim was eventually dismissed by a final decision in January 2006.

II. Complaints and procedure

Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicants complained that the proceedings had been unreasonably long and that, as a result of the prolonged seizure of the houses, they had been unable to use their property, leading to considerable financial losses and an interference with the company's activity.

III. Decision of the Court

The Court noted that both proceedings were adjourned several times, because of other related cases. In the Court's view it might be reasonable for the national courts to await under certain circumstances the outcome of parallel proceedings as a measure of procedural efficiency. However, it is not convinced that the adjournments of the proceedings were really necessary. The Court held that the overall length of the adjournment of both set of proceedings cannot be justified by the need for procedural efficiency in the present circumstances. Accordingly the Court concluded that the main responsibility for the length of the proceedings rested with the State.

The Court noted that the seizure of property were put in place when there had already been a binding final decision of 1995, that established the applicant company's ownership rights. In the Court's view, seizure of the property was not the only available remedy to ensure the satisfaction of the claims in the situation at hand.

Consequently, even though the disputed attachment orders formally served a "legitimate aim", the Court holds that given the nature and, in particular, duration of the measures they could have had certain negative economic consequences on the applicant's company and hindered its normal activity, restricting its rights and interests more than was necessary.

In the light of the foregoing and having regard to the duration and severity of the interference, the Court considers that the seizure orders in both civil cases imposed an excessive burden on the applicant company and accordingly upset the balance that must be struck between the protection of property rights and the requirements of the general interest.

Consequently, there had been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

IV. Just satisfaction

The Court held that the question of the application of Article 41 (just satisfaction) of the Convention was not ready for decision and reserved it.