

In the Chamber's judgment in the **CASE OF PADALEVI IUS v. LITHUANIA** 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 hearing within a reasonable time);**
- **no violation of Article 1 of Protocol No. 1 to the Convention (protection of property).**

#### **I. Principal facts:**

The applicant, Juozas Padalevi ius, is a Lithuanian national. The case concerned Mr Padalevi ius's complaint about the excessive length of civil litigation and about the annulment of the land-purchase agreement. He further argued that the compensation granted to him by the domestic courts for that land had been derisory.

In 1991 the former owners of the land belonging to the Noreikišk s settlement, situated on the LAA, filed claims for restitution of their ownership rights. On 13 March 1992 the Noreikišk s settlement local council assigned a plot of land for the Applicant's use and for construction of a private house. The same year Mr Padalevi ius paid 2 970 RUR for the use of that plot.

On 13 October 1992 there was a meeting of the Kaunas Regional Board and authorities to discuss the possibility of restoring property rights and to propose to the Government to earmark part of the land for former owners for the construction of private houses. Between 1992 and 1995 the Government allowed persons in the Applicant's position to acquire the property of the land.

In 1995 the Applicant and the Kaunas municipality signed a land-purchase agreement, then the plot of the land was registered in the State Land Registry and the Applicant became its owner.

On 5 June 1995, civil proceedings were brought by a group of eight private individuals for annulment of the land-purchase agreements, including that of the applicant and a total of 129 co-defendants.

On 27 June 1995 the Kaunas District Court ordered the seizure of the applicant's land. On the Applicant there were imposed numerous bans. Afterwards, the case was transferred to the different domestic courts. On 10 May 2002 the Constitutional Court adopted a ruling, finding that the Government decrees are in contradiction with the Constitution (Art. 23) and with the Restitution Law (Art. 12 § 1 (15)). Hence, the acts violated the rights of the former owners of the land, who had the right to restitution of their property.

As a result, on 28 June 2002 the Panev žys Regional Court reversed the decision of the Kaunas District Court. Consequently, the administrative acts whereby the land had been sold to the Applicant were declared null and void. The court ordered restitution and obliged the local authorities to return to the applicant the money that he had previously paid for the plot of land at issue.

The Applicant and other defendants lodged an appeal and alleged i.a. that:

- the Panev žys Regional Court had examined the case in the absence of their lawyer
- it is impossible to execute the appellate court's decision since it ordered restitution in "single-use investment vouchers", which have no more pecuniary value;

- the annulment of the land-purchase contracts was contrary to the right to protection of private property and would amount to re-privatisation

On 31 January 2003 the Supreme Court upheld the decision. However, it noted that the appellate court had taken a reasonable decision to hear the case in the lawyer's absence.

By a decision of 14 March 2005 the Deputy Governor of Kaunas County restored the former owners' title to the plot of land on the LAA settlement of which the applicant had acquired ownership under the annulled land-purchase agreement.

## **II. Complaints and procedure**

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), Mr Padalevicius complained about the excessive length of civil litigation. Further relying on Article 1 of Protocol No. 1 (protection of property), he complained about the annulment of his title to a plot of land derived from a transaction which the domestic courts found to have been in breach of the restitution laws.

## **III. Decision of the Court**

According to the Court, if the outcome of proceedings was decisive for civil rights and obligations, those proceedings came within the scope of Article 6 § 1.

The Court held that the proceedings before the Constitutional Court about the constitutionality of the Government's decrees on the basis of which the land purchase agreement had been concluded had been closely linked to the proceedings before the civil courts. In the instant case, the Court concluded that the reasonable time required by Article 6 § 1 had been exceeded, and that there had therefore been a breach of that provision.

In connection with Article 1 of Protocol No. 1, the Court held that it was mindful of the importance of the legitimate aims pursued by the restitution laws and the particular difficulties States faced when regulating the restitution of nationalised property after decades of totalitarian rule. Consequently, the Court would not regard as disproportionate every imbalance between the relevant public interest and the effects of restitution laws on the particular individual concerned. A certain "threshold" of hardship must have been crossed for the Court to find a breach of the applicant's Article 1 Protocol No. 1 rights. In the cumulative circumstances of the present case the Court does not consider that such a threshold of hardship has been reached and this part of the application has been found manifestly ill-founded and must be rejected.

## **IV. Just satisfaction**

The court held that Lithuania is to pay the applicant, within three months from the date on which the judgment becomes final, the following sums:

- EUR 2,500 plus any tax that may be chargeable, in respect of non-pecuniary damage
- EUR 869 plus any tax that may be chargeable for costs and expenses;