



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

FOURTH SECTION

CASE OF TUNAITIS v. LITHUANIA

(Application no. 42927/08)

JUDGMENT

(Just satisfaction – striking out)

STRASBOURG

4 October 2016

This judgment is final. It may be subject to editorial revision.

In the case of Tunaitis v. Lithuania,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

András Sajó, *President*,
Vincent A. De Gaetano,
Nona Tsotsoria,
Paulo Pinto de Albuquerque,
Krzysztof Wojtyczek,
Egidijus Kūris,
Iulia Motoc, *judges*,

and Marialena Tsirli, *Section Registrar*,

Having deliberated in private on 13 September 2016,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 42927/08) 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”) by a Lithuanian national, Mr Vytautas Tunaitis (“the applicant”), on 19 July 2008.

2. In a judgment delivered on 24 November 2015 (“the principal judgment”), the Court held that there had been a breach of Article 1 of Protocol No. 1 to the Convention with respect to the extinguishment of the applicant’s title to a plot of land by a decision of the domestic court and a lack of adequate compensation (*Tunaitis v. Lithuania*, no. 42927/08, §§ 34-43, 24 November 2015).

3. Under Article 41 of the Convention the applicant sought just satisfaction of 10,136 euros (EUR) in respect of pecuniary damage, EUR 8,690 in respect of non-pecuniary damage and EUR 1,830 for costs and expenses. Relying on an expert’s report of July 2008, he submitted that the amount for pecuniary damage corresponded to the market value of the plot of land at the time of deprivation.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicant to submit, within six months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, §§ 51-52, and point 3 of the operative provisions).

5. By a letter of 24 August 2016 the Government submitted to the Court the following joint declaration signed by the applicant’s representative and

the Agent of the Government of the Republic of Lithuania on 23 August 2016:

“1. The Government of the Republic of Lithuania, hereby expressing respect for human rights, and the applicant V. Tunaitis conclude a friendly settlement in the case *Tunaitis v. Lithuania* (no. 42927/08).

2. The Government of the Republic of Lithuania undertake to pay the applicant V. Tunaitis *ex gratia* EUR 10,116.25 (ten thousand one hundred sixteen euros and twenty-five cents) to cover pecuniary damage, EUR 7,000 (seven thousand euros) to cover non-pecuniary damage and EUR 3,884.94 (three thousand eight hundred eighty-four euros and ninety-four cents) for reimbursement of legal costs and expenses. The said sum will be free of any taxes and will be payable within three months from the date of the notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from the expiry of that period until the settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

3. The applicant V. Tunaitis and the Government of the Republic of Lithuania declare that the conclusion of this Declaration constitutes a final resolution of the case *Tunaitis v. Lithuania* (no. 42927/08) before the European Court of Human Rights. The applicant V. Tunaitis declares that he waives any further claims or complaints against Lithuania in respect of the facts giving rise to this application.”

THE LAW

6. Following its principal judgment, the Court has been informed that a friendly settlement has been reached between the Government and the applicant with respect to the applicant’s claims under Article 41 of the Convention. Although the text of the friendly settlement agreement indicates that the Government has made its undertaking “*ex gratia*”, the Court notes that that agreement is subsequent to the principal judgment in which a violation of the applicant’s rights was found.

7. The Court finds the agreement equitable within the meaning of Rule 75 § 4 of the Rules of Court and considers that it is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 of the Convention and Rule 62 § 3 of the Rules of Court). Consequently, the Court takes formal note of the friendly settlement and considers it appropriate to strike the remainder of the case out of its list of cases.

8. In accordance with Rule 43 § 3 of the Rules of Court, the present judgment will be forwarded to the Committee of Ministers in order to allow the latter to supervise, in accordance with Article 46 § 2 of the Convention, the execution of the Government’s undertakings.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

Decides to strike the remainder of the application out of its list of cases.

Done in English, and notified in writing on 4 October 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli
Registrar

András Sajó
President