



Grand Chamber hearing concerning the applicant's conviction of genocide

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 4 June 2014 at 9.15 a.m.** in the case of **Vasiliauskas v. Lithuania** (Application no. 35343/05).

The case concerns the conviction in 2004 of Mr Vasiliauskas, an officer at the Ministry of Interior of the Lithuanian Soviet Socialist Republic in 1953, for the genocide of Lithuanian partisans who resisted Soviet rule after the Second World War.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicant, Vytautas Vasiliauskas, is a Lithuanian national who was born in 1930 and lives in Tauragė (Lithuania).

On 1 May 2003 a new Criminal Code came into force in Lithuania and criminal liability for genocide was provided for under Article 99 of the new code.

Thus, on 4 February 2004 a regional court found Mr Vasiliauskas guilty under Article 99 of the new Lithuanian Criminal Code of the genocide committed in January 1953 of two Lithuanian partisans, as representatives of a political group, and sentenced him to six years' imprisonment. The conviction arose out of his participation as a Ministry of Interior officer in the killing of two partisans who resisted Soviet rule after the Second World War. At that time, anti-Soviet armed groups – in particular partisans – continued to put up resistance throughout the Lithuanian Soviet Socialist Republic.

The decision of the regional court was upheld by the Court of Appeal in September 2004 and then by the Supreme Court in a final decision of February 2005. The Court of Appeal held in particular that to attribute Lithuanian partisans to a political group was not precise enough. It found that the Lithuanian partisans had been representatives of the Lithuanian nation, that is, a national group, and that the Soviet genocide had been carried out precisely on account of the inhabitants' nationality-ethnicity which would be the requirement under international law for their deaths to be considered genocide. The Supreme Court further upheld the finding of the lower courts that Mr Vasiliauskas had participated in the killing of the resistance fighters and that he had to have known the goal of the Soviet government – namely, to eradicate the resistance fighters – and had to have realised that the two partisans would either be killed or arrested and sentenced.

In his application to the European Court, Mr Vasiliauskas complains that his conviction of genocide was in breach of Article 7 (no punishment without law) of the European Convention on Human Rights. He submits that Article 99 of the Lithuanian Criminal Code, which only entered into force on 1 May 2003, had retroactive effect and defined the notion of genocide in wider terms than the international definition under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention"). Namely, Article 99 includes political groups among the groups that could be considered as victims of genocide. However, the Genocide Convention does not include political groups among those protected.

¹ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects."

Procedure

The application was lodged with the European Court of Human Rights on 30 July 2005.

The Court gave notice of the application to the Lithuanian Government, with questions, on 16 June 2009. A [statement of facts](#) submitted by the Court to the Lithuanian Government is available in English only on the Court's website.

On 17 September 2013 the Chamber to which the case was allocated decided to relinquish jurisdiction in favor of the Grand Chamber.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Josep **Casadevall** (Andorra),
Guido **Raimondi** (Italy),
Ineta **Ziemele** (Latvia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Khanlar **Hajiyev** (Azerbaijan),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
Ann **Power-Forde** (Ireland),
Işıl **Karakaş** (Turkey),
Nebojša **Vučinić** (Montenegro),
Paulo **Pinto de Albuquerque** (Portugal),
André **Potocki** (France),
Ksenija **Turković** (Croatia),
Egidijus **Kūris** (Lithuania),
Jon Fridrik **Kjølbro** (Denmark), *judges*,
Helen **Keller** (Switzerland),
Robert **Spano** (Iceland),
Boštjan M. **Zupančič** (Slovenia), *substitute judges*,

and also Michael **O'Boyle**, *Deputy Registrar*.

Representatives of the parties

Government

Karolina **Bubnytė**, *Acting Agent*,
Lina **Urbaitė** and William A. **Schabas**, *Advisers*;

Applicant

Šarūnas **Vilčinskas**, *Counsel*.

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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.