



VILNIUS DISTRICT ADMINISTRATIVE COURT

VERDICT

March 17, 2020
Vilnius

Vilnius District Administrative Court judge Jūratė Gaidytė-Lavrinovič, having examined Grant Arthur Gochin's suit,

d e t e r m i n e d:

Plaintiff Grant Arthur Gochin filed a suit with the court through electronic telecommunication means on March 13, in which he requests the annulment of a finding by the Center for the Study of the Genocide and Resistance of Residents of Lithuania (hereinafter Center) issued December 17, 2019, on the activities of Jonas Noreika in the anti-Nazi underground.

The suit is not fit for consideration by the court.

According to article 33, section 2, point 1 of the Law on Administrative Case Procedure (hereinafter LACP) of the Republic of Lithuania, the court by reasoned resolution refuses to hear the case if it shouldn't be considered under the regulations for the administrative process of the courts.

Article 3, section 1 of the LPAC states the administrative court solves conflicts of law in the area of public administration, i.e., conflicts arising from relationships defined by the norms of public law. According to article 5 of the LPAC, every interested subject has the right in the manner prescribed by law to go to the court in order to defend its rights which have been violated or are in dispute, or to defend an interest protected by the laws. The jurisdiction of the administrative courts is assigned to hearing cases regarding the legality of legal acts and actions by state administrative entities, and also regarding the refusal of these entities to perform the actions assigned to their competency, the legality and foundation of this and avoidance of performing such actions (LPAC article 17, section 1, point 1). Article 23, section 1 of the LPAC states that those who have the right to present a complaint (request) regarding an administrative act or action (or non-action) by a public or internal administrative subject are those people who believe their rights or legally-protected interests have been violated. The above-indicated passages of law confirm the administrative courts are dedicated to hearing administrative cases regarding the legality of acts (administrative acts) adopted by state administrative subjects as well as actions (non-action) by them which has an effect on the rights and legally protected interests of specific people. Under the legal system it isn't the actions of just any state administrative subject which can be disputed in court, but only those which conform to the requirements of LPAC article 17, section 1, point 1, and article 23, section 1. A systemic explanation of the positions in LPAC provides a foundation for stating only a party who has been affected by the legal consequences arising from individual acts of law adopted in the sphere of public administration has the right to bring suit in the administrative court. By considering cases regarding acts or actions which do not or cannot have legal consequences, the court would be unable to defend the person's rights because, even in a finding in favor of the plaintiff and his complaint, the

scope of the person's rights and duties would not change, and the process would essentially be meaningless.

A position is consistently adhered to in the jurisprudence of the Lithuanian Supreme Administrative Court, namely, that a document written by a public administration subject which doesn't contain orders from the public administration subject (obligations placed upon the person) cannot be the subject of the hearing of a case, and a case which disputes such a document should not be accepted for hearing by the court (finding of April 6, 2010, in the administrative case no. AS⁸²²-172/2010, finding of October 22, 2010, in administrative case no. AS¹⁴³-560/2010, finding of March 10, 2011, in administrative case no. AS⁶²-180/2011, finding of May 21, 2012, in administrative case no. AS⁸⁵⁸-336/2012).

It is apparent from the content of the document in dispute that the Center drafted a finding on December 17, 2019, in which it laid out the facts as known to the Center regarding the activities of Jonas Noreika in the anti-Nazi underground.

It is the court's judgment the text in dispute is essentially informational, rather than a document of a decision-making type. Although it is established in jurisprudence that a court makes a decision on whether a disputed act could cause legal consequences or not only by hearing the whole case, it is obvious at the point of receiving the case the disputed act does not have legal consequences for the plaintiff, does not affect the plaintiff's material rights or duties, the text contains no formulations of mandatory rules of behavior by the plaintiff and does present information about the biographical facts of Jonas Noreika at a specific time in history. The disputed text does not contain an issue of contention regarding the rights or duties of the plaintiff, it presents information without any sort of mandatory orders or injunctions, i.e., this kind of information does not create any rights or duties for the plaintiff or other people and it doesn't apply any measures in order to have an effect. The court finds that this finding was intended for the wider public and it doesn't indicate any specific person or agency for whom it was written. It is noteworthy as well that it doesn't contain any procedures for making an appeal.

The court concludes that in this case the disputed finding doesn't not have any legal consequences for the plaintiff and does not affect the plaintiff's legal status, and therefore the court rejects hearing the case, as not within the jurisdiction defined for the administrative courts (LPAC article 37, part 2, point 1).

The plaintiff paid a filing fee of 41.00 euros. Since the court declined hearing the case, this 41.00 euros should be returned to the plaintiff.

The judge, based on article 33, part 2, point 1 and articles 107 and 108 of the LPAC,

r e s o l v e s:

To decline hearing Grant Arthur Gochin's complaint.

After this resolution becomes binding, the suit with documents and the 41.00 euros should be returned to the plaintiff.

The plaintiff may make a separate complaint to the Lithuanian Supreme Administrative Court through the Vilnius District Court regarding this verdict within 7 calendar days of receipt of a copy of this verdict..

Judge

Jūratė Gaidytė-Lavrinovič