

Press release issued by the Registrar

**CHAMBER JUDGMENT CONCERNING
Slovakia**

The European Court of Human Rights has today notified in writing the following Chamber judgment, which is not final.¹

Section 4

(1) *Lešník v. Slovakia* (application no. 35640/97)

No violation Article 10

The applicant, Alexej Lešník, is a Slovakian national, born in 1940 and living in Košice.

On 2 December 1991 he made a request for criminal proceedings to be brought against a fellow businessman for fraud, which was refused. He subsequently complained to the police that he was being harassed and his telephone tapped. Criminal proceedings were later brought against him for stealing from the businessman in question. On 6 December 1993 he wrote a letter to the District Prosecutor accusing him of fabricating the case against him in accordance with the practice of former State Security agents; unfairly dismissing his criminal complaint; and illegally ordering his telephone to be tapped. He also wrote a letter to the General Prosecutor complaining that the District Prosecutor had misused his powers and had possibly accepted bribes.

On 25 April 1995 Mr Lešník was convicted of (verbally) attacking a public official and sentenced to four months' imprisonment, suspended for a probationary period of one year. He unsuccessfully appealed. His trading licence was revoked on 28 October 1996, on the ground that he had been convicted of a criminal offence, but the decision was quashed on 4 June 1997. He registered as the owner of a new business on 18 February 1998 and received a new trading licence on 6 April 1998.

The applicant complained, under Article 10 (right to freedom of expression) of the European Convention on Human Rights, that he had been convicted for criticising the actions of a public prosecutor which he had deemed to be unlawful. He further submitted that the interference had been disproportionate because his trading licence was revoked following his conviction.

1. Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its Protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

The European Court of Human Rights found that the interference with Mr Lešník's freedom of expression had been prescribed by law within the meaning of Article 10 § 2 of the Convention. It noted that the criminal proceedings against him had pursued the legitimate aim of protecting the District Prosecutor's reputation and rights. Even though the limits of acceptable criticism of civil servants was broader than for private individuals, civil servants could not be said to expose themselves knowingly to close scrutiny of their every word and deed to the extent of politicians. Public prosecutors were civil servants whose task was to contribute to the proper administration of justice and it was in the general interest that they should enjoy public confidence. It might therefore be necessary to protect them from unfounded accusations. Individuals were entitled to criticise the administration of justice and the officials involved, but such criticism should not overstep certain limits.

Mr Lešník's letters had contained value judgments, which were not susceptible of proof, but also accusations of unlawful and abusive conduct. The domestic courts had rightly requested him to support those allegations with relevant evidence. They found them to be unsubstantiated and there was nothing to suggest that their finding was arbitrary. Moreover, the harm done to the public prosecutor's reputation could only have been exacerbated by the publication of the relevant parts of the letters in a newspaper, to which the applicant had contributed by supplying the relevant documents.

Mr Lešník had failed to show that he had suffered any damage as a result of having his trading licence revoked and could, in any event, have claimed compensation under the relevant legislation. Although his sentence was not insignificant in itself, it was situated in the lower part of the applicable scale. Bearing in mind that a certain margin of interference was left to the national authorities in such matters, the interference complained of had not been disproportionate to the legitimate aim and could be regarded as necessary for the purposes of Article 10 § 2 of the Convention. The Court accordingly held, by five votes to two, that there had not been a violation of Article 10 of the Convention. (The judgment is available only in English.)

Judges Bratza and Maruste expressed a dissenting opinion, which is annexed to the judgment.

These summaries by the Registry do not bind the Court. The full texts of the Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.