

Press release issued by the Registrar

**CHAMBER JUDGMENT
KUDESHKINA v. RUSSIA**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Kudeshkina v. Russia* (application no. 29492/05).

The Court held by four votes to three that there had been a **violation of Article 10** (freedom of expression) of the European Convention on Human Rights on account of Ms Kudeshkina's dismissal from the judiciary having been a disproportionately severe penalty for statements she had made in the media in which she had criticised higher judicial officials.

Under Article 41 (just satisfaction) of the Convention, the Court awarded Ms Kudeshkina 10,000 euros (EUR) in respect of non-pecuniary damage. ([The judgment is available only in English.](#))

1. Principal facts

The applicant, Olga Kudeshkina, is a Russian national who was born in 1951 and lives in Moscow. A judge for more than 18 years, at the relevant time she held office at the Moscow City Court.

The case concerned Ms Kudeshkina's allegation that she was dismissed from the judiciary in 2004 because she had publicly accused higher judicial officials of putting pressure on her in connection with a high-profile criminal case.

In 2003 Ms Kudeshkina was appointed to sit as a judge on a criminal case concerning abuse of powers by a police investigator, Mr Zaytsev, who was accused of carrying out unlawful searches in the investigation of a case about furniture smuggling in Moscow shopping centres. The parties disagree on the circumstances of Ms Kudeshkina's withdrawal from the case. Ms Kudeshkina herself submitted that the President of the Moscow City Court removed her from the case on 4 July 2003 without giving reasons, while the Government claimed that the case was withdrawn from her and assigned to another judge on 23 July 2003 on the grounds that she had delayed its examination.

¹ Under Article 43 of the Convention, 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.

In early December 2003 Ms Kudeshkina gave several interviews to Russian newspapers and a radio station. She stated in particular that the President of the Moscow City Court had put pressure on her while she had been dealing with the case against investigator Zaytsev. She also suggested that this was not the only case where the Russian courts had been used as an instrument of commercial, political or personal manipulation. On 2 December 2003 she complained to the High Judiciary Qualification Panel of the pressure allegedly put on her in connection with the Zaytsev case. The panel drew up a report, following which the President of the Supreme Court decided not to bring disciplinary proceedings against the President of the Moscow City Court.

In the meantime, on an unidentified date, the President of Moscow Judicial Council sought to dismiss Ms Kudeshkina from office, alleging that she had behaved in a manner inconsistent with the authority and standing of a judge, as she had intentionally insulted the court system and individual judges, and had made false statements that could mislead the public and undermine the authority of the judiciary. In May 2004, the Judiciary Qualification Board of Moscow decided that Ms Kudeshkina should no longer act as a judge; among other things, she had disclosed specific factual information concerning the criminal proceedings against investigator Zaytsev before the judgment in his case had entered into legal force. The decision stated that it could be challenged before a court within 10 days.

Ms Kudeshkina complained about her dismissal before the Moscow City Court, which heard her case at first instance. Ms Kudeshkina subsequently asked the Supreme Court to transfer her case to a different court, as the city court lacked impartiality. On 19 January 2005 the Supreme Court, in a final judgment, dismissed Ms Kudeshkina's request to have her case examined by any other court apart from the city court, and upheld the decision that Ms Kudeshkina had to be removed from her judicial position.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 12 July 2005 and declared admissible on 28 February 2008.

Judgment was given by a Chamber of seven judges, composed as follows:

Christos **Rozakis** (Greece), *President*,
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Dean **Spielmann** (Luxemburg),
Giorgio **Malinverni** (Switzerland),
George **Nicolaou** (Cyprus), *judges*,

and also Søren **Nielsen**, *Section Registrar*.

3. Summary of the judgment²

Complaint

² This summary by the Registry does not bind the Court.

Relying on Article 10, the applicant alleged that she was dismissed from the judiciary in 2004 because she had publicly accused higher judicial officials of putting pressure on her in connection with a high-profile criminal case.

Decision of the Court

Article 10

The Court first observed that nothing in the interviews Ms Kudeshkina had given to the media would justify the claims of disclosure, which had been made by the Judiciary Qualification Board of Moscow. It further found that Ms Kudeshkina's allegations of pressure had not been convincingly dispelled in the domestic proceedings. Having noted that Ms Kudeshkina had publicly criticised the conduct of various officials, and had alleged that pressure on judges was common, the Court found that she had undoubtedly raised a very important matter of public interest which had to be open to free debate in a democratic society. Even if Ms Kudeshkina had allowed herself a certain degree of exaggeration and generalisation, the Court found that her statements had to be regarded as a fair comment on a matter of great public importance.

As regards Ms Kudeshkina's fears concerning the impartiality of Moscow City Court, the Court considered them justified given the allegations she had made against that court's President. As these arguments of hers had not been given consideration during the domestic proceedings, the Court concluded that the manner in which the disciplinary sanction had been imposed on Ms Kudeshkina had not secured important procedural guarantees. Finally, the Court noted that the penalty imposed, Ms Kudeshkina's dismissal, had been capable of having a "chilling effect" on judges wishing to participate in the public debate on the effectiveness of the judicial institutions. The Court therefore held that that penalty had been disproportionately severe, in violation of Article 10.

Judge Kovler expressed a dissenting opinion, joined by Judge Steiner; and Judge Nicolaou also expressed a dissenting opinion. The texts are annexed to the judgment.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

Stefano Piedimonte (telephone : 00 33 (0)3 90 21 42 04)

Tracey Turner-Tretz (telephone : 00 33 (0)3 88 41 35 30)

Paramy Chanthalangsy (telephone : 00 33 (0)3 88 41 28 30)

Kristina Pencheva-Malinowski (telephone : 00 33 (0)3 88 41 35 70)

Céline Menu-Lange (telephone : 00 33 (0)3 90 21 58 77)

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.