



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

Communicated on 7 January 2014

FIRST SECTION

Application no. 50231/13
Pavla SABALIĆ
against Croatia
lodged on 26 July 2013

STATEMENT OF FACTS

The applicant, Ms Pavla Sabalić, is a Croatian national, who was born in 1982 and lives in Zagreb. She is represented before the Court by Ms N. Labavić, a lawyer practising in Zagreb.

The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 13 January 2010 the applicant was attacked in a bar by a man, M.M., to whom she had disclosed her homosexual orientation. The applicant was hit and kicked all over her head and body causing her multiple contusions on the head and forehead, face, lips, neck, chest, palms of her hands and her knees. During the attack, M.M. shouted that all lesbians should be killed. The attack ceased only after the applicant's friend used her gas pistol to frighten the attacker.

On the same day the police questioned the eyewitnesses and the applicant, and obtained the relevant medical records.

The police instituted minor offences proceedings in the Zagreb Minor Offences Court (*Prekršajni sud u Zagrebu*) against M.M. for breach of public peace and order.

On 20 April 2010 the Zagreb Minor Offences Court fined M.M. 300 Croatian kunas (approximately EUR 40).

After having realised that the police had failed to institute a criminal investigation, on 29 December 2010 the applicant lodged a criminal complaint with the Zagreb Municipal State Attorney's Office (*Općinsko državno odvjetništvo u Zagrebu*).

On 28 April 2011 the Zagreb Municipal State Attorney's Office asked an investigating judge of the Zagreb County Court (*Županijski sud u Zagrebu*) to conduct an investigation into the applicant's complaints.

On 19 July 2011 the Zagreb Municipal State Attorney's Office rejected the applicant's criminal complaint on the grounds that M.M. had already been prosecuted in the minor offences proceedings and that his criminal prosecution would violate the *ne bis in idem* principle.

On 26 October 2011 the applicant took over the prosecution as a subsidiary prosecutor in the Zagreb Municipal Criminal Court (*Općinski kazneni sud u Zagrebu*).

The Zagreb Municipal Criminal Court rejected the applicant's indictment on 19 July 2012 endorsing the arguments of the Zagreb Municipal State Attorney's Office.

The decision of the Zagreb Municipal Criminal Court was upheld on appeal by the Zagreb County Court on 9 October 2012.

The applicant then lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*), referring to the Court's case-law concerning the State's procedural obligation to investigate acts of violence, and complaining of the ineffectiveness of the domestic authorities in addressing her complaints effectively.

On 31 January 2013 the Constitutional Court declared the applicant's constitutional complaint inadmissible on the grounds that in the impugned decisions the lower courts had not addressed any of the applicant's rights or obligations.

The decision of the Constitutional Court was served on the applicant's representative on 22 February 2013.

COMPLAINTS

The applicant complains, under Articles 3 and 8 of the Convention, of the lack of an appropriate procedural response of the domestic authorities to an act of violence by a private party motivated by her sexual orientation.

She further complains, under Article 13 of the Convention, that she did not have an effective domestic remedy concerning her complaints.

Lastly, the applicant complains, under Article 14 taken in conjunction with Articles 3 and 8 of the Convention, that she was discriminated against on the basis of her sexual orientation.

QUESTIONS TO THE PARTIES

1. Have the State authorities complied with their procedural obligations under Articles 3 and 8 of the Convention?
2. Did the applicant have at her disposal an effective domestic remedy for her complaints under Article 3 and 8 of the Convention, as required by Article 13 of the Convention?
3. Has the applicant suffered discrimination on the grounds of her sexual orientation, contrary to Article 14 of the Convention read in conjunction with Articles 3 and 8 of the Convention?

The Government are requested to submit two copies of the relevant documents concerning the applicant's case.