

## **Resolution CM/ResDH(2010)174<sup>1</sup>**

### **Execution of the judgments of the European Court of Human Rights Armonienė and Biriuk against Lithuania**

(Applications Nos. 36919/02 and 23373/03, judgments of 25/11/2008, final on 25/02/2009)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”);

Having regard to the judgments transmitted by the Court to the Committee once they had become final;

Recalling that the violation of the Convention found by the Court in these cases concerns the failure of national Courts in their obligation to protect the applicants’ private lives as result of the very low ceiling on damages awarded to the applicants following serious breaches of their right to their private lives (violation of Article 8 of the Convention) (see details in Appendix);

Having invited the government of the respondent state to inform the Committee of the measures taken to comply with its obligation under Article 46, paragraph 1, of the Convention to abide by the judgments;

Having examined the information provided by the government in accordance with the Committee’s Rules for the application of Article 46, paragraph 2, of the Convention;

Having satisfied itself that, within the time-limit set, the respondent state paid the applicants the just satisfaction provided in the judgments (see details in Appendix),

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded in the judgments, the adoption by the respondent state, where appropriate, of

- individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- general measures preventing similar violations;

DECLARES, having examined the measures taken by the respondent state (see Appendix), that it has exercised its functions under Article 46, paragraph 2, of the Convention in these cases and

DECIDES to close the examination of these cases.

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<sup>1</sup> Adopted by the Committee of Ministers on 2 December 2010 at the 1100th meeting of the Ministers’ Deputies

## Appendix to Resolution CM/ResDH(2010)174

### Information on the measures taken to comply with the judgments in the cases of Armonienė & Biriuk against Lithuania

#### Introductory case summary

These cases concern national courts' failure in their obligation to secure respect for the applicants' private lives as a result of the derisory sum awarded to them in respect of non-pecuniary damages in proceedings which they had brought.

In the Armonienė case, in January 2001, a major daily newspaper published a front-page article about the dangers of AIDS, divulging among other things information on the state of health of the applicant's husband to the effect that he was HIV-positive and that he was the father of two children by another woman who was also suffering from AIDS.

In the Biriuk case, the same article contained information about the applicant's state of health, as well as references to her sexual life.

The applicants sued the newspaper for breach of their right to privacy. The courts ruled in their favour and awarded them the maximum sum set by Article 54§1 of the Law on the Provision of Information to the Public, which is 10 000 litai (about 2, 896 EUR).

The European Court found that in cases of such flagrant abuse of press freedom, the severe limitations imposed by law on judges' discretion in redressing damage sustained by the victims resulted in the applicants' being deprived of the degree of protection for their private life which they had a right to expect (violation of Article 8).

#### I. Payments of just satisfaction and individual measures

##### a) Details of just satisfaction

Name and application number	Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
Armonienė (36919/02)	-	6 500 EUR	-	<b>6 500 EUR</b>
				<b>Paid on 8/04/2009</b>
Biriuk (23373/03)	-	6 500 EUR	-	<b>6 500 EUR</b>
				<b>Paid on 8/04/2009</b>

##### b) Individual measures

No other individual measure was considered necessary by the Committee of Ministers apart of the payment of the just satisfaction for non-pecuniary damage awarded by the Court.

#### II. General measures

The new Civil Code which came into force on 1/07/2001, removed the ceiling on judicial awards of compensation criticised in these judgments, contained in Article 54§1 of the Law on the Provisions of Information to the Public. The judgments have been translated into Lithuanian and placed on the official internet site of the Ministry of Justice with an

explanatory note. All the relevant institutions and all the domestic courts have been informed of the judgments and their contents.

### **III. Conclusions of the respondent state**

The government considers that no individual measure is required, apart from the payment of the just satisfaction, that the general measures adopted will prevent similar violations and that Lithuania has thus complied with its obligations under Article 46, paragraph 1, of the Convention.