

**Resolution CM/ResDH(2016)97**  
**Execution of the judgment of the European Court of Human Rights**  
**Baškienė against Lithuania**

Application No.	Case	Judgment of	Final on
11529/04	BAŠKIENĖ	24/07/2007	10/12/2007

*(Adopted by the Committee of Ministers on 4 May 2016  
at the 1255th meeting of the Ministers' Deputies)*

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 final judgment transmitted by the Court to the Committee in this case and to the violations established;

Recalling the respondent State's obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

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

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation;

Having examined the information provided by the government indicating the measures adopted in order to give effect to the judgment including the information provided regarding the payment of the just satisfaction awarded by the Court (see Appendix);

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and

DECIDES to close the examination thereof.

## Appendix to Resolution CM/ResDH(2016)97

*Information on the measures taken to comply with the judgment in the case of Baškienė against Lithuania*

### Introductory case summary

The case concerns a violation of the applicant's right of access to court and the excessive length of civil proceedings, in that the domestic courts failed to take a decision on the applicant's claims after more than seven years of proceedings (two violations of Article 6 § 1).

The applicant was entitled to a number of shares in two companies owned by her ex-husband. In 1996 she brought a civil action seeking to have her shares redeemed by one of the companies. While this claim was being examined, some evidence emerged indicating criminal activity on the part of the director and the chief accountant of the two companies. Criminal proceedings were initiated on suspicion of embezzlement and fraud. The applicant received the status of a victim and civil claimant, and her original civil claim was referred for an examination in the criminal proceedings. In 2003 the defendants were convicted of forgery and negligent bookkeeping and acquitted of the rest of the charges. At the same time the trial court decided to leave the applicant's original claim without examination, noting that "the defendants had neither been accused of nor tried for offences which could have caused damage to the applicant's interests as a shareholder" and that "the applicant had a possibility to pursue her claims by way of a separate civil action".

### 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
Baškienė (33970/05)	-	5 000 EUR	-	5 000 EUR
				<b>Paid on 04/02/2008</b>

#### b) Individual measures

The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage. The Court did not make any award in respect of pecuniary damage, as it did not discern any causal link between the violation found and the alleged pecuniary damage.

The applicant instituted civil proceedings against the State seeking compensation for pecuniary damage allegedly suffered as the result of the courts' refusal to consider her claim. On 28 February 2011 the Supreme Court of Lithuania rejected her claim in final instance finding no causal link and therefore no ground for the State's liability. The Supreme Court further held that it had been open to the applicant to submit a civil claim against the company directors. Concerning the applicant's initial claim seeking to oblige the company to redeem her shares, the court noted that the law in force at the material time did not provide for such an obligation and that the applicant had failed to provide evidence that her ability to dispose of the shares was in any way restricted during the criminal proceedings.

In these circumstances, the Lithuanian authorities consider that no other individual measure is necessary in this case.

### II. General measures

The judgment of the European Court has been translated and published on the website of the Ministry of Justice. It has also been disseminated, together with an explanatory note, to all the authorities involved in the criminal proceedings and to the judicial authorities. The Lithuanian authorities consider that these measures are sufficient in response to the violation of the right to access to court, as this case represents an isolated incident. Furthermore, it is recalled that the Convention enjoys direct effect in the domestic legal order.

As regards the measures taken to address the problem of length of judicial proceedings and the lack of an effective remedy in respect thereof, on 17 December 2014, by its final Resolution CM/ResDH(2014)291, the Committee of Ministers closed its examination of the group of cases *Šulcas* against Lithuania in which those issues were dealt with.

**III. Conclusions of the respondent State**

The government considers that the measures taken have fully erased the consequences for the applicant of the violations of the Convention found by the European Court in this case, that these measures will prevent new similar violations in future and that Lithuania has therefore complied with its obligations under Article 46, paragraph 1, of the Convention.