

Resolution ResDH(2004)58
concerning the judgment of the European Court of Human Rights
of 26 March 2002 (final on 26 June 2002)
in the case of Butkevičius against Lithuania

*(Adopted by the Committee of Ministers on 12th October 2004
at the 897th 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, as amended by Protocol No. 11 (hereinafter referred to as “the Convention”),

Having regard to the judgment of the European Court of Human Rights in the case of Butkevičius delivered on 26 March 2002 transmitted to the Committee of Ministers once it had become final under Articles 44 and 46 of the Convention;

Recalling that the case originated in an application (No. 48297/99) against Lithuania, lodged with the European Court of Human Rights on 10 May 1999 under Article 34 of the Convention by Mr Audrius Butkevičius, a Lithuanian national, and that the Court declared admissible the complaints that there had been no valid domestic decision or other lawful basis for the applicant's detention on remand; that he had been deprived of the right to challenge the lawfulness of his detention and that the statements made by the Prosecutor and the Chairman of the Seimas (Parliament) had breached his right to presumption of innocence;

Whereas in its judgment of 26 March 2002 the Court unanimously:

- held that there had been a violation of Article 5, paragraph 1, of the Convention;
- held that there had been a violation of Article 5, paragraph 4, of the Convention;
- held that there had been a violation of Article 6, paragraph 2, of the Convention;
- held that the government of the respondent state was to pay the applicant, within three months, from the date on which the judgment would become final, 5 700 euros in respect of non-pecuniary damage; 2 900 euros in respect of costs and expenses to be converted into the national currency of the respondent state at the rate applicable on the date of the settlement and that simple interest at an annual rate of 7.25% would be payable on those sums from the expiry of the above-mentioned three months until settlement ;
- dismissed the remainder of the applicant's claim for just satisfaction;

Having regard to the Rules adopted by the Committee of Ministers concerning the application of Article 46, paragraph 2, of the Convention;

Having invited the government of the respondent state to inform it of the measures which had been taken in consequence of the judgment of 26 March 2002, having regard to Lithuania's obligation under Article 46, paragraph 1, of the Convention to abide by it;

Whereas during the examination of the case by the Committee of Ministers, the government of the respondent state recalled that measures had already been taken to avoid new violations

of the same kind as those found in this case (see ResDH(2004)56 in the case of Jėčius against Lithuania), in particular through the entry into force, on 1 May 2003, of the new Code of Criminal Procedure, the relevant provisions of which set out an exhaustive list of specific grounds and requirements to be met before imposing or extending detention on remand; and, in particular, that under Article 130 of the new Code, the complaints challenging the lawfulness of detention on remand, filed by the detained person or his defense counsel, have to be examined in a public hearing, to which the arrested person and his/her defence counsel have to be summoned;

Whereas the government of the respondent state also indicated that the Court's judgment had been sent out to the authorities directly concerned and published in Lithuanian in the annual compendium "Europos žmogaus teisių teismo sprendimai bylose prieš Lietuvą 2002/01/01 – 2003/01/01" ("Decisions and Judgments of the European Court of Human Rights against Lithuania 01/01/2002 – 01/01/2003");

Having satisfied itself that on 30 June 2002, within the time-limit set, the government of the respondent state had paid the applicant the sums provided for in the judgment of 26 March 2002;

Declares, after having examined the information supplied by the Government of Lithuania, that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case.