

Resolution ResDH(2004)56
concerning the judgment of the European Court of Human Rights
of 31 July 2000
in the case of Jėčius 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 final judgment of the European Court of Human Rights in the case of Jėčius delivered on 31 July 2000 and transmitted the same day to the Committee of Ministers under Article 46 of the Convention;

Recalling that the case originated in an application (No. 34578/97) against Lithuania, lodged with the European Commission of Human Rights on 30 December 1996 under former Article 25 of the Convention by Mr Juozas Jėčius, a Lithuanian national, and that the Commission declared admissible the complaints that there had been no valid domestic decision or other lawful basis for the applicant's detention; that he was not brought promptly before a judge or other officer; that he had been deprived of the right to contest the lawfulness of his detention and that the length of his detention had been excessive;

Recalling that the applicant died in the course of the proceedings and that his widow expressed the wish to continue the proceedings;

Recalling that the case was brought before the Court by the Commission, on 25 October 1999;

Whereas in its judgment of 31 July 2000 the Court unanimously:

- held that the applicant's widow had standing to continue the present proceedings in his stead;
- dismissed the Government's preliminary objection;
- held that there had been a violation of Article 5, paragraph 1, of the Convention as regards the applicant's preventive detention;
- held that there had been a violation of Article 5, paragraph 1, of the Convention as regards the applicant's detention on remand for the period from 4 June 1996 to 31 July 1996;
- held that there had been no violation of Article 5, paragraph 1, of the Convention as regards the applicant's detention on remand for the period from 31 July 1996 to 16 October 1996;
- held that there had been no violation of Article 5, paragraph 3 of the Convention as regards the alleged failure to bring the applicant promptly before a judge or other officer;

- held that there had been a violation of Article 5, paragraph 3, of the Convention as regards the length of the applicant's detention on remand;

- held that there had been a violation of Article 5, paragraph 4, of the Convention;

- held that the government of the respondent state was to pay the applicant, within three months, 60 000 Lithuanian litai, in respect of non-pecuniary damage; 40 000 Lithuanian litai, in respect of costs and expenses, together with any value-added tax that might be chargeable, and that simple interest at an annual rate of 9.5% 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 31 July 2000, 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 gave the Committee information about the measures taken preventing new violations of the same kind as those found in the present judgment; this information appears in the Appendix to this Resolution;

Having satisfied itself that on 28 August 2000, within the time-limit set, the government of the respondent state had paid the applicant the sums provided for in the judgment of 31 July 2000;

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.

Appendix to Resolution ResDH(2004)56

Information provided by the Government of Lithuania during the examination of the Jėčius case by the Committee of Ministers

On 30 June 1997, the Law on preventive detention, which was at the basis of the violations in this case, was abolished. On 17 March 2002, the Lithuanian Parliament (Seimas) adopted the new Code of Criminal Procedure, which entered into force on 1 May 2003. Article 122(1) of the new Code (version of the law last amended on 8 July 2004) sets out an exhaustive list of grounds on which the measure of detention on remand may be imposed. Such a measure is thus ordered by a competent judge if there is a reasonable cause to believe that a suspect could (a) abscond or hide from the competent investigation officer, prosecutor or court, (b) obstruct the course of the proceedings, or (c) commit new offences. Article 122(6) read together with Article 123(4) of the Code provide that when ordering detention on remand, the grounds and motives shall be specified in the detention order.

As to the question of the reasonableness of the length of detention on remand, the relevant provisions of the Code of Criminal Procedure have also been amended. Article 127(1) of the new Code now provides for an initial term of three months, which may be extended to six and eighteen months, depending on the complexity of the case and gravity of the offence. According to paragraph 4 of the same Article read together with Article 125(1) p. 4, the judge issuing an order extending the detention on remand shall specify therein the grounds and reasons justifying the continued detention.

Furthermore, according to the present Article 130 of the new Code, complaints challenging the lawfulness of detention on remand can be filed by the detained person or his defence counsel during both pre-trial investigation and court proceedings. Such complaints have to be examined in a public hearing, to which the arrested person and his/her defence counsel, or only his/her defence counsel, have to be summoned. In addition, following the entry into force of the current version of Article 372, paragraph 4, of the Code of Criminal Procedure (Law No. VIII-956, 10 December 1998), this provision no longer contains a prohibition of appeals against first-instance court decisions imposing, modifying or revoking detention on remand.

The Lithuanian translation of the European Court's judgment has been published in the annual compendium "Europos žmogaus teisių komisijos ir Eropos žmogaus teisių teismo sprendimai bylose prieš Lietuvos Respubliką 1997/01/01- 2000/01/01" ("The reports of the European Commission of Human Rights and the judgments of the European Court of Human Rights against the Republic of Lithuania 1997/01/01-2000/01/01") and disseminated to the Supreme Court and to the Office of the Prosecutor General of Lithuania. Having regard to the direct effect granted by the Supreme Court to the European Convention on Human Rights and the European Court's jurisprudence (as evidenced by the Supreme Court's decisions of 29 April 2003 - case No. 2K-322/2003 – or of 16 September 2003 – case No. 2K-504/2003), the Government considers that the new legislative provisions will be interpreted and applied by the authorities in conformity with the Convention.

Accordingly, the Government is of the opinion that the aforementioned measures will prevent new violations similar to those found by the Court, and that Lithuania has thus fulfilled its obligations under Article 46, paragraph 1, of the Convention in the present case.