

Resolution CM/ResDH(2011)299¹

Execution of the judgments of the European Court of Human Rights Karalevičius and Savenkovas against Lithuania

(Application no. 53254/99, judgment of 07/04/2005, final on 07/07/2005
Application no. 871/02, judgment of 18/11/2008, final on 18/02/2009)

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 violations of the Convention found by the Court in these cases concern degrading treatment of the applicants due to poor conditions of detention (violations of Article 3), the censorship of the applicants’ correspondence with the Court (violations of Article 8) and, in the case of Karalevičius, also the unlawfulness of the applicant’s detention on remand during certain periods (Article 5, paragraph 1) (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 by the Court in its 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
- of 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.

¹ Adopted by the Committee of Ministers by tacit procedure in accordance with the decision taken at the 1128th meeting (December 2011) under item F.

Appendix to Resolution CM/ResDH(2011)299

Information about the measures to comply with the judgments in the cases of Karalevičius and Savenkovas against Lithuania

Introductory case summaries

a) Karalevičius case

This case concerns degrading treatment of the applicant during his detention between 1997 and 2000 at Šiauliai Remand Prison due to poor prison conditions, including the extreme lack of living space in his cell (violation of Article 3).

The case also concerns the unlawfulness of the applicant's detention given the absence of any court decision or other legal basis for his detention on remand in the periods from 13/06/1997 to 06/08/1997 and from 29/06/1999 to 30/07/1999 (violations of Article 5, paragraph 1).

The case concerns moreover the censorship of the applicant's correspondence with the Convention organs while he was in remand prison (violation of Article 8). The Court concluded that the measures taken to control the applicant's correspondence were not "necessary in a democratic society".

b) Savenkovas case

This case concerns degrading treatment of the applicant during his detention from September 1999 to October 2000 and for certain short periods between 2001 and 2003 at Lukiškės Remand Prison due to poor prison conditions. Having regard to the reports of the CPT (CPT/Inf(2001)22 and CPT/Inf(2006)9), the European Court found that the severely overcrowded and insanitary conditions under which the applicant was detained amounted to degrading treatment (violation of Article 3).

The case also concerns unjustified interference with the applicant's right to respect for his correspondence. The Court considered that there was extensive censorship of prisoners' correspondence at the material time and that the government had not presented sufficient reasons to show why such censorship was "necessary in a democratic society" (violation of Article 8).

I. Payment of just satisfaction and individual measures

a) Details of just satisfaction

Name and application number	Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
Karalevičius, 53254/99	-	12000 EUR	1000 EUR	13000 EUR
				Paid on 11/07/2005
Savenkovas, 871/02	-	5000 EUR	500 EUR	5500 EUR
				Paid on 25/02/2009

b) Individual measures

Mr Karalevičius was released in March 2000 and Mr Savenkovas in July 2003. In the Karalevičius case, the Court found no causal link between the pecuniary damage claimed by the applicant and the violations found by the Court. However the Court awarded the applicant moral damage for the violations found (3000 EUR in respect of the degrading conditions of detention, 8000 EUR in respect of the unlawful detention on remand, as well as 1000 EUR in respect of the censorship of the applicant's correspondence). In the Savenkovas case, the Court considered that the applicant could not claim any pecuniary damage but awarded him non-pecuniary damage in respect of unacceptable conditions of detention. Consequently, and bearing in mind that the applicants did not raise any other claims before the Committee of Ministers, no other individual measure appears necessary.

II. General measures

a) Violation of Article 3

In order to ensure that persons are detained under conditions meeting the requirements of Article 3 of the Convention at Šiauliai Remand Prison and Lukiškės Remand Prison, the Lithuanian authorities took a number of measures to improve the detention conditions.

Overcrowding: An extension to the Šiauliai Remand Prison and a new Kaunas Remand Prison were built, the space afforded to each detainee increased and repairs were carried out. Following the entry into force of the new Criminal Code on 1 May 2003, the number of detainees has decreased considerably. One of the objectives of the Prisons Modernisation Strategy for 2009-2017 is to bring conditions in remand prisons up to the required standards.

Sanitary conditions: The Order of the Ministry of Justice No. 1R-139 of 09/06/2004 with further amendments governs supplies of hygienic products to be distributed to prison inmates. In 2004 by Resolution No. 619, the government approved a programme of prison refurbishment and improvement of prison conditions for 2004-2009. Subsequently, refurbishment and reconstruction works were carried out. According to the Regulations on equipment and use of remand establishments, toilets must be partitioned or wholly separated. A legal provision of 2006 entitles convicted prisoners to receive monthly funding.

Out-of-cell activities: Various measures were taken in order to offer out-of-cell activities to detainees. In particular, in 2009 the Minister of Justice approved, by Order No. 1R-172, the new Internal Regulations of Remand Establishments, one of the objectives of which is to increase the number of out-of-cell activities to be offered to detainees.

The Lithuanian authorities underline that they are pursuing the improvement of detention conditions in prison establishments in close co-operation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and are fully committed to continuing their efforts in the light of the recommendations of the CPT.

b) Violation of Article 5, paragraph 1

The Lithuanian authorities took a number of legislative measures between 1997 and 2003 to prevent violations concerning unlawful detention in the cases of Jėčius ([ResDH\(2004\)56](#)) and Stašaitis ([ResDH\(2004\)60](#)). Thus it should be noted that the provisions of the Code of Criminal Procedure applicable at the material time of the Karalevičius case in relation to detention on remand were repealed as a result of the entry into force on 01/05/2003 of the new Code of Criminal Procedure. Furthermore, on 30/12/2004 the Lithuanian Supreme Court adopted guidelines stating that domestic courts imposing detention on remand must follow the Lithuanian Constitution as well as Article 5 of the Convention. These measures, along with the publication and dissemination of the Court's judgments constitute, in the authorities' view, sufficient measures to prevent similar violations.

c) Violation of Article 8

The Lithuanian authorities have already adopted legislative measures to prevent unnecessary censorship of detainees' correspondence in the Valašinas ([ResDH\(2004\)44](#)) and Jankauskas ([ResDH\(2007\)128](#)) cases in which relevant amendments of the Law on Pre-trial Detention were adopted in 2000 and 2001. Moreover, a new Law on Administration of Detention on Remand entered into force in 2009. According to Article 16 of this Law, detainees have the right to correspond with their relatives and with other persons without any limitation on the number of letters. This right may be restricted following a reasoned decision by the pre-trial investigating judge or the court which must indicate the grounds, the duration and the form of checking of letters as well as other circumstances warranting the measure. The Lithuanian authorities consider that this law effectively limits the authorities' power to exert excessive control over detainees' correspondence. These measures, along with the publication and dissemination of the Court's judgments constitute, in the authorities' view, sufficient measures to prevent similar violations.

d) Publication and dissemination

Karalevičius case: The Court's judgment was translated and published on the internet site of the Ministry of Justice (www.tm.lt). The translation of the judgment was also placed on the internet site of the National Courts Administration as well as in the annual compendium of *Decisions and Judgments of the European Court of Human Rights in cases against Lithuania*. It was also sent out with a cover letter to the Supreme Administrative Court, to the Prosecutor General's Office and to the Prisons Department under the Ministry of Justice.

Savenkovas case: An explanatory note together with the European Court's judgment was placed on the internet site of the Ministry of Justice giving information about the judgment and its content. The translation of the judgment was also placed on the internet site of the National Courts' Administration. The Agent of the Government informed all relevant institutions and domestic courts about the judgment, sending it together with the explanatory note.

III. Conclusions of the respondent state

The government considers that no individual measure is required apart from the payment of the just satisfaction, and 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.