

Resolution CM/ResDH(2010)176¹

Execution of the judgment of the European Court of Human Rights Švenčionienė against Lithuania

(Application No. 37259/04, judgment of 25 November 2008, final on 25 February 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 judgment transmitted by the Court to the Committee once it had become final;

Recalling that the violation of the Convention found by the Court in this case concerns the fact that the applicant had been unable to attend an appeal hearing in divorce proceedings (violation of Article 6, paragraph 1 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 judgment;

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 the respondent state paid the applicant the just satisfaction provided for in the judgment (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 this case and

DECIDES to close the examination of this case.

¹ Adopted by the Committee of Ministers on 2 December 2010 at the 1100th meeting of the Ministers’ Deputies.

Appendix to Resolution CM/ResDH(2010)176

Information about the measures to comply with the judgment in the case of Švenčionienė against Lithuania

Introductory case summary

This case concerns a violation of the applicant's right to a fair hearing, as she had had no possibility to attend the appeal hearing in civil proceedings for divorce and the division of matrimonial property.

The Court considered that notice of the hearing which was to be held to consider the appeal lodged by the applicant's husband had not been sent to her at the right address. This procedural defect was aggravated by the fact that this hearing had been notified to her husband, and that he had been able to attend and put his arguments without the applicant having been able to reply. The appeal court had set aside the judgment of the court of first instance to the benefit of the husband and reduced the amount of monetary compensation initially awarded to the applicant. The Supreme Court had dismissed the applicant's appeal. The European Court concluded that there had been an infringement of the applicant's right to equality of arms and adversarial proceedings (violation of Article 6§1).

I. Payment of just satisfaction and individual measures

a) Details of just satisfaction

Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
-	2 800 EUR	-	2 800 EUR
Paid on 08/04/2009			

b) Individual measures

In pursuance of Article 366 of the Code of Civil Procedure the applicant had the possibility of requesting reopening of the proceedings. One of the cases for reopening for which this article provides is that in which the European Court has concluded that decisions of domestic courts had violated the Convention. According to the information submitted by the Lithuanian authorities, the applicant did not avail herself of this possibility. Consequently, no other individual measure was considered necessary by the Committee of Ministers.

II. General measures

Domestic legislation was not called into question by the Court. The Lithuanian authorities consequently consider that publication and dissemination of the judgment were satisfactory measures to prevent similar violations. The Court's judgment has been translated into Lithuanian and placed on the official internet site of the Ministry of Justice. In addition, the relevant institutions and all domestic courts have been informed in writing of the judgment.

III. Conclusions of the respondent state

The government considers, in view of the possibility for which domestic law provides of requesting reopening of proceedings, that no other individual measure is required, apart from the payment of the just satisfaction, that the measures adopted will prevent similar violations and that Lithuania has thus complied with its obligations under Article 46, paragraph 1 of the Convention.