

Resolution CM/ResDH(2016)98
Execution of the judgments of the European Court of Human Rights
Two cases against Lithuania

Application No.	Case	Judgment of	Final on
16965/04	UŽUKAUSKAS	06/07/2010	06/10/2010
35601/04	POCIUS	06/07/2010	06/10/2010

*(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 judgments transmitted by the Court to the Committee in these cases 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 judgments 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 these cases and

DECIDES to close the examination thereof.

Appendix to Resolution CM/ResDH(2016)98

Information on the measures taken to comply with the judgments in the cases of Užkauskas and Pocius against Lithuania

Introductory case summary

This group of cases concerns violations of the right to a fair trial due to the domestic administrative courts' finding against the applicants on the basis of classified evidence in 2003 and 2004, respectively (violations of Article 6 § 1). The applicants had instituted proceedings against their entry in an "operational records file", a database containing information compiled by law-enforcement officers, which had been used to revoke their firearms licenses. The evidence was neither disclosed to the applicants nor did they have the possibility to respond to it, unlike the police who had effectively exercised such rights.

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
Užkauskas (16965/04)	-	3 500 EUR	1 290 EUR	4 790 EUR
				Paid on 19/10/2010
Pocius (35601/04)	-	3 500 EUR	-	3 500 EUR
				Paid on 19/10/2010

b) Individual measures

The European Court awarded the applicants just satisfaction in respect of non-pecuniary damage and, in the case of the first applicant, in respect of costs and expenses.

The statutory time-limit for a request to re-open the proceedings expired in January 2011, with neither of the applicants having availed themselves of it.

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

II. General measures

The violations found in the group resulted from the misapplication and wrongful interpretation of legal provisions by the domestic courts. On 15 May 2007 the Constitutional Court of Lithuania held, relying on the domestic administrative law, that no court decision could be entirely based on information considered a State secret (or otherwise classified) and unknown to one or more parties to the case. On 2 December 2010 the Committee of Ministers, by final Resolution [CM/ResDH\(2010\)175](#), closed its examination of the case of *Gulijev* against Lithuania which also concerned the use of classified documents, with contents unknown to the defence, in administrative proceedings.

The judgments of the European Court have been translated and published, together with an explanatory note, on the website of the Ministry of Justice. They have also been published on the website of the National Courts' Administration. In addition, they have been disseminated to all the domestic courts and the Police Department under the Ministry of the Interior.

III. Conclusions of the respondent State

The government considers that the measures taken have fully erased the consequences for the applicants of the violations of the Convention found by the European Court in these cases, 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.