

**Resolution ResDH(2004)44**  
**concerning the judgment of the European Court of Human Rights**  
**of 24 July 2001 (final on 24 October 2001)**  
**in the case of Valašinas against Lithuania**

*(Adopted by the Committee of Ministers on 20 July 2004  
at the 891st 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 Valašinas case delivered on 24 July 2001 and 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. 44558/98) against Lithuania, lodged with the European Commission of Human Rights on 14 May 1998 under former Article 25 of the Convention by Mr Juozas Valašinas, a Lithuanian national, and that the Court, seised of the case under Article 5, paragraph 2, of Protocol No. 11, declared admissible the complaints concerning the inhuman and degrading treatment of the applicant during his detention in the Pravieniškės prison from April 1998 to April 2000 and the control of his correspondence, as well as the interference with the exercise of his rights under Article 34 of the Convention;

Whereas in its judgment of 24 July 2001 the Court, unanimously:

- held that there had been a violation of Article 3 of the Convention as regards the applicant's body search on 7 May 1998;
- held that there had been a violation of Article 3 of the Convention as regards the remainder of the applicant's complaint about his treatment and conditions of detention;
- held that there had been a violation of Article 8 of the Convention;
- held that there had been no violation of Article 34 of the Convention;
- held that the government of the respondent state was to pay the applicant, within three months from the date at which the judgment became final, 6 000 Lithuanian litai in respect of non-pecuniary damage; 1 693 Lithuanian litai and 87 cents in respect of costs and expenses, plus any value-added tax that can be chargeable, and that simple interest at an annual rate of 9,28% 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 24 July 2001, 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 13 September 2001, within the time-limit set, the government of the respondent state had paid the applicant the sums provided for in the judgment of 24 July 2001,

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)44**

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

The judgment of the European Court of Human Rights has been translated into Lithuanian and published in the *Europos žmogaus teisių sprendimai bylose prieš Lietuvos Respubliką* (2000.01.01-2001.01.01). Furthermore, following a letter from the Representative of the Lithuanian Government to the European Court to the Prison Department of the Lithuanian Ministry of Justice on 14 November 2002, the Government of Lithuania has drawn the attention of the prison authorities to the need to ensure that violations of Article 3 of the Convention do not re-occur when conducting searches of detained persons. The prison authorities were also informed about the judgment rendered in this case.

Concerning the violation found by the European Court with regard to the control of correspondence of detained persons, the Lithuanian Parliament (*Seimas*) adopted the new Code on the Execution of Criminal Sentences (*Bausmių vykdymo kodeksas*) which replaced the Penitentiary Code. The new Code entered into force on 1 May 2003. In accordance with the provisions of the Code, it is no longer possible to control the correspondence of detainees without the authorisation of the prosecutor or the governor of the detention centre, or on the basis of a judicial decision. The Code also stipulates the cases in which the control of detainees' correspondence cannot be authorised. These cases include, *inter alia*, correspondence with the institutions of the European Convention of Human Rights.

The Government of Lithuania considers that these developments have prevented new violations similar to those found in the present case and that Lithuania has accordingly complied with its obligations under Article 46, paragraph 1, of the Convention.