

Resolution CM/ResDH(2013)109
Balčiūnas against Lithuania
Execution of the judgment of the European Court of Human Rights

(Application No. 17095/02, judgment of 20 July 2010, final on 20 October 2010)

*(Adopted by the Committee of Ministers on 6 June 2013
at the 1172nd 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 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 excessive length of the applicant's detention on remand (violation of Article 5, paragraph 3) (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, within the time-limit set, the respondent State paid the applicant the just satisfaction provided 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.

Appendix to Resolution CM/ResDH(2013)109

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

Introductory case summary

The case concerns the violation of the applicant's right to liberty and security on account of the excessive length of detention on remand spent in, inter alia, Šiauliai Remand Prison from 1 May 2000 to 19 July 2002 (i.e. 2 years, 2 months and 18 days) (violation of Article 5, paragraph 3). The Court held that in the circumstances of the present case, only exceptional reasons could have justified the continuation of detention but that in the judicial orders adopted, the reasons given for extending the applicant's detention were just a brief and abstract repetition of the criteria enumerated in the article then in force of the Code of Criminal Procedure, without specifying the manner in which those grounds applied to the individual case of the applicant (see §§ 84-85 of the judgment). The Court also observed that the applicant's situation was further compounded by the inadequate conditions at the Šiauliai Remand Prison where he was held and the fact that unlike the persons convicted, during his pre-trial detention he was deprived of the possibility to benefit from long duration visits from his relatives (see § 86 of the judgment).

I. Payment of just satisfaction and individual measures

a) Details of just satisfaction

Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
-	6 000 EUR	-	6 000 EUR
			Paid on 26/11/2010

b) Individual measures

The applicant was granted just satisfaction for non-pecuniary damage by the Court and released from detention on remand in September 2003 (see § 49 of the judgment).

Consequently, no other individual measure was considered necessary by the Committee of Ministers.

II. General measures

Legislative amendments concerning detention on remand were adopted by the Lithuanian authorities in the context of earlier judgments from the Court (see notably the Final Resolution adopted in the case of Jėčius against Lithuania (ResDH(2004)56). Since the entry into force of the new Code of Criminal Procedure on 1 May 2003, the domestic authorities have aligned their practice accordingly.

An explanatory note regarding the present judgment, together with the judgment and its translation, were placed on the internet site of the Ministry of Justice. The translation of the judgment was further placed on the internet site of the National Courts' Administration and is thus freely accessible to all interested persons. By letter of 3 December 2010, the Government Agent informed all domestic courts, the Prosecutor's General Office and the Department of Prisons under the Ministry of Justice about the judgment, together with its translation and the explanatory note.

In view of the above, no further general measure was deemed necessary by the Committee of Ministers.

III. Conclusions of the respondent state

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