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Meeting: 1310<sup>th</sup> meeting (March 2018) (DH)

Item reference: Action plan (22/12/2017)

Communication from Lithuania concerning the case of MIRONOVAS AND OTHERS v. Lithuania (Application No. 40828/12)

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Communication de la Lituanie concernant l'affaire MIRONOVAS ET AUTRES c. Lituanie (Requête n° 40828/12) (*anglais uniquement*)

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DGI

22 DEC. 2017

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH



**AGENT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA  
TO THE EUROPEAN COURT OF HUMAN RIGHTS**

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22 December 2017

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Ambassador Extraordinary and Plenipotentiary  
Permanent Representation  
of Lithuania to the Council of Europe

**BY E-MAIL AND MAIL TRANSMISSION**

**EXECUTION OF THE ECHR JUDGMENTS IN CASES AGAINST  
LITHUANIA CONCERNING IMPROPER PRISON CONDITIONS:  
MIRONOVAS AND OTHERS (LEADING);  
ALEKSANDRAVIČIUS AND OTHERS, VITANIS AND ŠUKYS,  
STEMPLYIS AND DEBESYS (REPETITIVE);  
MANKEVIČIUS AND OTHERS (FRIENDLY SETTLEMENT)  
UPDATED ACTION PLAN**

The Agent of the Government of the Republic of Lithuania to the European Court of Human Rights (hereinafter – Government Agent) submits information concerning the execution of the judgments of the European Court of Human Rights (hereafter – the Court) in the following cases against Lithuania where violation of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter – the Convention) has been found due to inadequate prison (hereinafter the term “prison” is used to refer to remand prisons and/or correctional houses) conditions:

- 1) *Mironovas and Others* (nos. 40828/12, 29292/12, 69598/12, 40163/13, 66281/13, 70048/13 and 70065/13), judgment of 8 December 2015, final on 2 May 2016 – **leading case**;
- 2) *Mankevičius and Others* (nos. 64469/13, 27029/14, 34310/14, 39874/14) decision of 29 June 2017, published on 20 July 2017 – *friendly settlement*;  
*Repetitive cases*;
- 3) *Aleksandravičius and Others* (nos. 32344/13, 43576/13, 49516/13, 65956/13 and 71139/13), judgment of 4 July 2017, final on 4 July 2017;

- 4) *Vitanis and Šukys* (nos. 51043/13 and 54553/13), judgment of 26 September 2017, final on 26 September 2017;
- 5) *Stemplys and Debesys* (nos. 71024/13 and 71974/13), judgment of 17 October 2017, final on 17 October 2017.

### ***Description of cases***

Improper detention conditions of the detainees and convicts, in particular due to the overcrowding.

#### ***Mironovas and Others***

- Prison Hospital – application of R. Mironovas (no. 40828/12);
- Alytus Correctional Home – application of R. Ivanenkov (69598/12);
- Šiauliai Remand Prison – application of D. Zeleniakas (70065/13);
- Lukiškės Remand Prison – application of V. Traknys (no. 70048/13).

It should be noted that the Court found that the applicant B. Petrulevič who complained about his detention in Lukiškės Remand Prison could no longer claim to be a victim within the meaning of Article 34 of the Convention as the applicant was already sufficiently compensated by the domestic courts. Furthermore, there were no violations found with regard to imprisonment conditions of the applicants R. Klintovič in Pravieniškės Correctional Home-Open Colony and R. Gaska in the Vilnius Correctional Home due to peculiarities of the prison regime to certain extent compensating the negative consequences of the overcrowding.

In case *Mankevičius and Others* the parties have reached friendly settlements in relation to the applicant's complaints about their detention conditions in Lukiškės Remand Prison (in cases Mankevičius (no. 64469/13), Nanartonis (no. 27029/14), Orlovas (no. 39874/14)) and Šiauliai Remand Prison (in case Juknevičius (no. 34310/14)).

In case *Aleksandravičius and Others* the violation of the Convention was found with regard to all the applicants – Ž. Aleksandravičius (no. 32344/13), A. Gailiun (no. 43576/13), A. Novikov (no. 49516/13), G. Dūda (no. 65956/13) and D. Antonovas (no. 71139/13) - who complained about their detention conditions in Lukiškės Remand Prison.

In case *Vitanis and Šukys* the violation of the Convention was found due to improper detention conditions of the applicants in Šiauliai Remand Prison.

In case *Stemplys and Debesys* the violation of the Convention with regard to both applicants was found due to overcrowding in Pravieniškės Correctional Home-Open Colony.

### ***Individual measures***

#### ***Payment of just satisfaction and friendly settlement compensations***

Sums awarded as just satisfaction or friendly settlement compensation in all the cases at issue have been paid in due time.

According to the mentioned judgments/decision of the European Court of Human Rights, the Government of the Republic of Lithuania was obliged to pay the following sums:

- to R. Mironovas – EUR 6 500;
- to D. Zeleniakas – EUR 6 500;
- to R. Ivanenkov – EUR 10 000;
- to V. Traknys – EUR 8 000;



- to M. Mankevičius – EUR 7900;
- to M. Nanartonis – EUR 7600;
- to V. Juknevičius – EUR 7000;
- to T. Orlovas – EUR 1600;
- to Ž. Aleksandravičius – EUR 2 400;
- to A. Gailiun – EUR 8 500;
- to A. Novikov – EUR 4 600;
- to G. Dūda – EUR 5 800;
- to D. Antonovas – EUR 3 700;
- to R. Vitanis – EUR 5 600;
- to S. Šukys – EUR 5 500;
- to V. Stemplys – EUR 17 100;
- to H. Debesys – EUR 17 400.

The awarded sums were transferred to the indicated personal accounts of the applicants:

- on 12 May 2016 in respect of R. Ivanenkov and R. Mironovas;
- on 20 July 2016 in respect of V. Juknevičius;
- on 29 September 2017 in respect of D. Antonovas, G. Dūda, A. Gailiun;
- on 5 October 2017 in respect of T. Orlovas;
- on 14 November 2017 in respect of V. Stemplys and H. Debesys;
- in respect of M. Mankevičius only part of the sum, namely EUR 411.24, on 30 August 2017 was transferred to the applicant's personal account, because the rest of the sum was attached by the bailiff (see below).

The awarded sums were transferred to the relevant correctional institutions where the applicants were held at that time as those institutions administered the prisoners' accounts<sup>1</sup>:

- in respect of Ž. Aleksandravičius on 4 October 2017 the awarded sum was transferred to the account administered by the Alytus Correctional House;
- in respect of R. Vitanis on 28 November 2017 the awarded sum was transferred to the account administered by the Vilnius Correctional House;
- in respect of S. Šukys on 19 December 2017 the awarded sum was transferred to the account administered by the Pravieniškės Correctional House-Open Colony.

In order to recover the applicants' debts the awarded sums in full or in part were transferred to the deposit accounts of the relevant bailiffs due to imposed attachment on those funds<sup>2</sup>:

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<sup>1</sup> Under Article 6§ 2 of the Law on Compensation for Damage Caused by Unlawful Actions of the State Authorities and Representation of the State and the Government of the Republic of Lithuania, in the person who had incurred damage is detained or serving a custodial sentence, the funds may be transferred to the personal account of the said persons, administered by the imprisonment institution, where he is held.

<sup>2</sup> According to Article 585 of the Code of Civil Procedure of the Republic of Lithuania demand of the bailiff to enforce certain decisions is mandatory to all the persons and institutions. Article 688 § 1 of the Code of Civil Procedure provides that recovery may be directed to amounts of a debtor's money in the possession of other persons. In this regard it should be noted that the Ministry of Justice administers the budget allocations for the payment of the compensations under the judgments of the European Court of Human Rights, thus sums due to the applicants under the Court's judgments/decisions are considered as applicants' money in the possession of the Ministry of Justice. In case the bailiff imposes attachment of the sums due to the applicant, the Ministry of Justice would be obliged to transfer concrete amount to the bailiff account when executing the Court's judgment/decision.

- in respect of V. Traknys on 31 May 2016 the sum of EUR 8 000 was transferred to the account of bailiff I. Karalienė in order to recover private debts of the applicant;
  - in respect of D. Zeleniakas on 7 July 2016 the sum of EUR 6 500 was transferred to the account of bailiff A. Liaškovas in order to recover private debt of the applicant;
  - in respect of M. Mankevičius on 30 August 2017 the sum of EUR 7 488.76 was transferred to the account of bailiff A. Kvaraciejienė in order to recover private debts of the applicant;
  - in respect of A. Novikov on 29 September 2017 the sum of EUR 4 382.04 was transferred to bailiff V. Milevičius in order to recover private debt of the applicant; in order to recover imposed administrative fine the sum of EUR 217.96 was transferred to the account of bailiff D. Šidlauskas;
  - in respect of M. Nanartonis on 5 October 2017 the sum of EUR 7 600 was transferred to the account of bailiff D. Prunskienė in order to recover private debt;
- Subsequently the Government Agent was informed that the applicant M. Nanartonis have reached a friendly settlement with the claimant who applied before the bailiff seeking to recover the applicant's debt for the maintenance of their child, thus the bailiff in accordance with the conditions of the friendly settlement transferred 4500 Eur to the applicant M. Nanartonis to the account indicated by him for that purpose.

#### *Individual situation*

The following applicants have already been released:

R. Mironovas – on 13 November 2012;  
D. Zeleniakas – on 24 April 2015;  
R. Ivanenkov – on 15 April 2013;  
M. Mankevičius – on 23 January 2014;  
T. Orlovas – on 5 April 2017;  
V. Juknevičius – on 1 June 2016;  
Ž. Aleksandravičius – on 23 October 2017;  
A. Novikov – on 2 June 2014;  
G. Dūda – on 23 April 2014;  
D. Antonovas – on 14 November 2017;  
V. Stemplys – on 28 August 2015;  
H. Debesys – on 20 December 2013.

The applicant M. Nanartonis will be released from prison on 22 February 2018.

The applicant V. Traknys currently serves his imprisonment sentence in Alytus Correctional House, he is sentenced until 19 February 2023, on 19 June 2018 he shall be eligible to apply for the conditional release.

The applicant A. Gailiun currently serves his imprisonment sentence in Pravieniškės Correctional House-Open Colony, he is sentenced until 6 October 2022, on 6 February 2018 he shall be eligible to apply for the conditional release.

The applicant S. Šukys currently serves his imprisonment sentence in Pravieniškės Correction House-Open Colony, he is sentenced until 12 June 2021, since 12 June 2017 he is eligible to apply for the conditional release.

The applicant R. Vitanis currently serves his imprisonment sentence in Vilnius Correctional House, he is sentenced until 29 July 2023, on 29 March 2019 he shall be eligible to apply for the conditional release.



The information about the individual situation of the imprisoned applicants, in particular as concerns allocated personal living space in relevant institutions shall be updated by 1 April 2018.

*In the Government's view, the situation of the applicants who have already been released was fully remedied through the awards of just satisfaction and reached friendly settlements, thus in their regard supervision could be closed, taking into account the repetitive nature of the cases at issue and the fact that execution of general measures will be supervised in the leading case.*

### *General measures*

#### *Dissemination*

Explanatory notes regarding the judgments in all the cases at issue together with the texts of relevant judgments also the translation of the judgment in cases *Mironovas and Others* were placed on the official website of the Government Agent <<http://lr-v-atstovas-eztt.lt/>>, thus they are freely accessible to all the relevant institutions and other interested persons. The domestic courts, the Ministry of Justice and the Prison Department were separately informed by the Government Agent providing detailed analysis of the Court's judgments and the relevant case-law of the Court, in particular drawing attention to the criteria established by the Grand Chamber in case *Muršić v. Croatia* (no. 7334/13, 20 October 2016).

The Government Agent in particular emphasized the findings of the European Court of Human Rights in case *Mironovas and Others* presenting the Activity Report of 2015.

In order to discuss about the preventive and compensatory measures which are required for the effective prevention of repetitive violations of Article 3 of the Convention in regard to prison conditions, in February 2017 the Government Agent together with the Minister of Justice organized a high level seminar-discussion with the participation of the ECHR judge E. Kūris, representatives of the Ministries of Justice and Finance, Chancellery of the President, Chancellery of the Government, Prison Department, Seimas Ombudsmen Office, Lithuanian courts and academia.

In November 2017 the issue of the shared responsibility in the course of the execution of the judgments of the Court was discussed at the seminar-discussion organized by the Government Agent together with the Ministry of Justice and the Parliament of the Republic of Lithuania with the participation of the judges of the Court, representative of the Department for the execution of judgments of the ECHR, Presidents of the highest courts of Lithuania, representatives of NGOs and academia. The issue of the inadequate prison conditions was addressed by the majority of the speakers and was in detail discussed, in particular as concerns the development of the case-law of the administrative courts and the need to strengthen preventive measures in addition to the compensative measures in order to ensure effective protection of human rights and as well in order to reduce number of the repetitive cases thereby ensuring prevention of similar violations both before the national courts and before the European Court of Human Rights.

#### *Increased compensations*

It should be noted that taking into account the case-law of the Court, the amount of compensation for the inadequate imprisonment conditions determined by the domestic courts was increasing in the recent years. For example, according to the data of the National Courts Administration in 2009-2013 the average sum awarded by the Supreme Administrative Court for the non-pecuniary damage due to improper imprisonment conditions reached EUR 1.14 per one

day, in 2014 – it was EUR 4.78, and during the past several years the average sum awarded amount to EUR 6-10 per day.

#### *Reduced number of prisoners*

Referring to the preventive remedies, the Court had already noted that there had been positive developments as regards new legislative measures that had been in force in Lithuania since 1 July 2012 in order to tackle the prison overcrowding issue (see *Mironovas and Others v. Lithuania*, § 105). The provisions of the amended Penal Code, Criminal Code and Code of Criminal Procedure as well as the Law on Probation ensured more efficient application of sentences unrelated to imprisonment as well guaranteed more effective social resocialisation of prisoners. The aggregate results show that due to the purposeful development of penal policy the total number of prisoners in the country has decreased by 1/3.

Herewith it should be noted that the new probation model, based on the effective resocialisation of prisoners and the application of modern control methods, a decrease is observed in the number of the inmates arriving to serve their sentence in penitentiary institutions, who were put on probation. In 2007-2011, the inmates on probation who arrived to penitentiary institutions (for the evasion of probation or after being imposed a sentence for a new offence) made up on average 35 per cent of all the inmates serving their sentence in penitentiary institutions, when the Law on Probation came into force, this number declined to 14 per cent.

Purposeful changes in the criminal policy in the 2012-2016 have resulted in a steady decrease in the prison population. These changes have contributed to both a wider use of alternatives to imprisonment (for instance, 20.6 per cent of fixed-term imprisonment sentences were suspended in 2014, 26 per cent in 2015 and 28.9 per cent in 2016) and fewer actual imprisonment sentences (4 029 persons were sentenced to actual imprisonment in 2014, 2 362 in 2015 and 1 898 in 2016).

The changes in the penal policy regarding the imposition of detention on remand helped to reduce considerably its application. As from 1 January 2015 it is possible to impose a new restrictive measure to the suspects and the accused – intense surveillance which became an alternative to the detention on remand. The grounds for the imposition of the detention on remand have also been reviewed. Due to the purposeful development of the penal policy the number of the detention on remand from 1 January 2012 (1347 detainees) till 20 December 2017 (584 detainees) has decreased significantly.

Period of Time	Total Number of Prisoners in Lithuania	Detainees	Convicts
1 January 2012	9920	1347	8573
1 January 2013	9729	1179	8550
1 January 2014	9261	1118	8143
1 January 2015	8636	868	7798
1 January 2016	7355	712	6643
1 January 2017	6815	602	6213
20 December 2017	6586	584	6002

The minimum standard of living space per prisoner was established back in 2010, when the total number of prisoners amounted to 9 000. Considering that this number has currently been



reduced by 30 per cent and the number of remand prisoners has decreased over 50 per cent, they now actually enjoy a living space equal to, and in some penitentiary establishments even larger than the CPT-recommended minimum living space.

*Modernisation and repair of prison facilities*

The following recent measures are being or have been implemented in modernising penitentiary institutions:

- the Central Prison Hospital has been moved to new premises in Pravieniškės (August 2016);
- the dormitory of the Marijampolė Correction House was reconstructed into a cell-type facility (May 2017); also at the Marijampolė Correction House, 51 living spaces (1 684 sq. m) for prisoners and 16 toilet facilities were refurbished in 2015; 37 living spaces (1 013 sq. m) and 17 toilet facilities in 2016; and 2 living spaces<sup>3</sup> (86 sq. m) and 2 toilet facilities in 2017.
- the dormitory-type living areas of the third block of the Pravieniškės Correction House-Open Colony are being converted into cell-type living areas. Completion of the work is scheduled in December 2017; on 11 January 2016 Rehabilitation centre started acting in Pravieniškės Correction House in order to provide assistance to addicted prisoners.
- outdoor communication networks and perimeter enclosures (the masking fence and main fence) have been installed in the newly built place of deprivation of liberty in Šiauliai. All the construction work in this establishment is scheduled to be completed by 2021. The new establishment, with a capacity of 600 places, will first of all accommodate the persons currently held at the Šiauliai Remand Prison.
- at the Lukiškės Remand Prison-Closed Prison, 37 cells (401.93 sq. m) and 12 exercise yards (232.34 sq. m) were refurbished in 2016 and 32 cells (293.46 sq. m) and 10 exercise yards in 2017; repairs of the southern wing of the Second Block (former premises of the Central Prison Hospital) are in progress at the Lukiškės Remand Prison-Closed Prison. The plan is to set up additional 83 places for remand prisoners here by 2019.
- planning work has been completed to convert the dormitory-type living areas of the Alytus Correction House into cell-type living areas. Reconstruction was scheduled to begin in late 2017; also simple repairs carried out at the Alytus Correction House in 2017 covered cell-type living spaces: the temporary detention cell (10.04 sq. m) and 3 cells (74.76 sq. m); the old military quarter is being under repair seeking to establish living premises for the accommodation of inmates (up to 90 persons) who have permission to leave the territory of correctional institution without supervision.
- the amendments of Penal Code, which came into force on 23 June 2015, introduced a new form of serving the sentence, i.e. “halfway houses”. Thus, in 2016 there were 4 new “halfway houses” opened within Vilnius, Alytus, Marijampolė, and Pravieniškės correctional facilities, where 80 prisoners are accommodated in separate single-quadruple living premises.
- upon receipt of the funds from the 2014-2021 Norwegian Financial Mechanism, the design of a correctional facility with a capacity for 210 inmates is planning to start in 2018. This new prison establishment is expected to open doors in 2022.
- in newly built (reconstructed) penitentiary establishments, the toilet facilities are completely separated from the cell area. In those penitentiary establishments where the ventilation system’s structure and cell layout prevent isolation of the toilet facilities and/or installation of doors to them, partitions of a minimum height of 1.5 m. and special retractable curtains are installed.

<sup>3</sup> Not counting the 32 cells refurbished when reconstructing the entire prisoner dormitory building.



To conclude, it could be stated that the mentioned-above developments of the penal policy significantly contribute to solving the problem of overcrowding in prisons, thus improving the conditions of detention, there are also constant measures taken in order to improve material conditions of detainees and convicts, including establishment of new facilities and reconstruction of the existing ones in order to ensure the required standards for the penitentiary institutions as concerns hygiene and sanitary conditions. The Government Agent will keep updating about all the relevant developments in this regard.

*Respectfully,*



*Karolina Bubnytė  
Agent of the Government of the Republic of Lithuania  
to the European Court of Human Rights*