

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Clare Ovey
Tel: 03 88 41 36 45

Date: 01/03/2018

DH-DD(2018)211

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1310th meeting (March 2018) (DH)

Item reference: Action plan (23/02/2018)

Communication from Lithuania concerning the case of Matiosaitis and Others v. Lithuania (Application No. 22662/13)

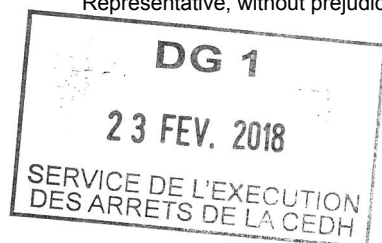
* * * * *

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1310^e réunion (mars 2018) (DH)

Référence du point : Plan d'action

Communication de la Lituanie concernant l'affaire Matiosaitis et autres c. Lituanie (Requête n° 22662/13)
(anglais uniquement)



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

Gedimino ave. 30, LT-01104 Vilnius, tel. +370 5 266 2990,
fax +370 5 266 2863, +370 5 262 5940, e-mail k.bubnyte@tm.lt

M^{me} Geneviève Mayer
Department for the execution of judgments of the ECHR
DGI Directorate General of Human Rights and Rule of Law
Council of Europe
F-67075 STRASBOURG CEDEX

23 February 2018

Cc: M^{me} Laima Jurevičienė
Ambassador Extraordinary and Plenipotentiary
Permanent Representation
of Lithuania to the Council of Europe

BY E-MAIL AND MAIL TRANSMISSION

**EXECUTION OF THE ECHR JUDGMENT
IN CASE MATIOŠAITIS AND OTHERS v. LITHUANIA
ACTION PLAN**

The Agent of the Government of the Republic of Lithuania to the European Court of Human Rights (hereinafter – Government Agent) submits information with regard to execution of the judgment of the European Court of Human Rights of 23 May 2017 in case *Matiošaitis and Others v. Lithuania* (applications Nos. 22662/13, 51059/13, 58823/13, 59692/13, 59700/13, 60115/13, 69425/13 and 72824/13). The judgment became final on 23 August 2017 in accordance with Article 44§ 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter – the Convention).

Case description

Absence of review (by the executive or the court) of the applicants' life imprisonment sentence, so that that sentence could be regarded as reducible for the purposes of Article 3 of the Convention.

It should be noted that the European Court of Human Rights (hereinafter – the Court) found that the applications of R. Lenkaitis (no. 59700/13) and E. Svotas (no. 72824/13) should be struck out from the Court's case list under Article 37 § 1 (a) of the Convention as applicants did not submit any further observations following the submission of their applications.

Individual measures

Just satisfaction

The Court considered that its finding of a violation of Article 3 of the Convention constituted sufficient just satisfaction and made no award under this heading.

Re-opening of proceedings

The conviction and sentencing of the applicants was not called into question by the Court in the present case at issue, thus applicants are not entitled to apply for the re-opening of their criminal cases.

Individual situation

The applicants K. Matiošaitis, J. Maksimavičius, S. Katkus, A. Kazlauskas and P. Gervin are serving their life imprisonment sentence in Lukiškės Remand Prison. V. Beleckas is serving his sentence in Pravieniškės Correctional House where he was transferred by the court order taking into account his active participation in the social rehabilitation, thus currently he is subject to a less strict regime applicable in a correctional house.

In the Government's view the individual situation of the applicants shall be remedied by the general measures introducing into the Lithuanian legal system the mechanism for the possibility of effective review of the life imprisonment sentence (see below as concerns legislative amendments).

General measures

Dissemination

Explanatory note regarding the Court's judgment in case *Matiošaitis and Others* case and its translation into Lithuanian was placed on the official website of the Government Agent <<http://lr-v-atstovas-eztt.lt/>>, thus it is freely accessible to all the relevant institutions, domestic courts and other interested persons. The Government Agent separately informed the Lithuanian National Courts' Administration also the General Prosecutor's Office requesting for further dissemination of the judgment to the domestic courts and prosecutor offices. The Government Agent also held several high level meetings, namely with the Prime Minister, the Speaker of the Parliament also with the head of the Committee of Legal Affairs of the Seimas in order to discuss necessary execution measures to be taken for the effective prevention of similar violations. It could be noted that the judgment was widely reported and discussed within the Lithuanian society, including the media and scholarly debate.

Legislative amendments

In order to introduce into the legal system the mechanism for the effective review of the life imprisonment sentence the Ministry of Justice prepared the amendments of the Criminal Code (draft law no. 18-941), the Code of Criminal Procedure (draft law no. 18-943), the Penal Code (draft law no. 18-944) and on 29 January 2018 submitted the package of the said draft laws for consideration before the Government of the Republic of Lithuania.

The mentioned mechanism of judicial review foresees that after a life prisoner has served 25 years of imprisonment he/she would have a right to apply before the court for a review of the imposed life sentence. Assessing such request the court should take into account the risk of

reoffending, the impact of the imposed sentence to a prisoner, whether a prisoner acknowledges the committed crime and regrets of committing it, whether a prisoner has reimbursed the damages or has undertook to compensate it. If the court decides to change the sentence the life imprisonment would be changed into the fixed term imprisonment – minimum for additional 5 years, not exceeding 10 years of imprisonment. The life imprisonment review requests would be examined before the Vilnius Regional Court by the panel of 3 judges in participation of a prosecutor, a representative of the prison facility, a prisoner and upon his/her request his/her lawyer, a victim or his/her representative. Decision of the first instance court would be subject to appeal.

Having examined the prepared draft laws the Chancellery of the Government submitted their preliminary remarks, *inter alia*, suggesting a wider consultation of the life imprisonment review mechanism, thus on 14 February 2018 the Ministry of Justice send the draft laws to the Prosecutor General's Office and the Judicial Council for further consultations. Upon receipt of the comments of the mentioned institutions the drafts laws would be amended, if necessary, and forwarded to the Government of the Republic of Lithuania for consideration.

The Government of the Republic of Lithuania by the resolution of 12 February 2018 no. 152 has suggested to include the mentioned draft laws into the agenda of the Spring Session of the Parliament, indicating that they are aimed at implementation of the judgment of the Court in case *Matiošaitis and Other v. Lithuania*.

The Government Agent will keep the Committee of Ministers informed on any further developments in the legislative process.

Respectfully,



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