

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Christophe Poirer
Tel: 03 88 41 23 30

Date: 22/03/2018

DH-DD(2018)302

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: 1318th meeting (June 2018) (DH)

Item reference: Action plan (19/03/2018)

Communication from Lithuania concerning the case of BAKANOVA v. Lithuania (Application No. 11167/12)

* * * * *

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 : 1318^e réunion (juin 2018) (DH)

Référence du point : Plan d'action

Communication de la Lituanie concernant l'affaire BAKANOVA v. Lituanie (Requête n° 11167/12)
(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, 262 5940, e-mail: k.bubnyte@tm.lt

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

Vilnius, 19 March 2018

Cc: Ms Laima Jurevičienė
Ambassador Extraordinary and Plenipotentiary of Lithuania
to the Council of Europe

DGI

19 MARS 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

BY MAIL AND EMAIL TRANSMISSION

**UPDATED ACTION PLAN
REGARDING THE EXECUTION OF THE ECHR JUDGMENT IN THE CASE
BAKANOVA v. LITHUANIA (NO. 11167/12)**

The Agent of the Government of the Republic of Lithuania to the European Court of Human Rights (hereafter – the Agent of the Government) having regard to the recent developments in the above said case submits the updated action plan concerning the execution of the judgment of the European Court of Human Rights (hereafter – the Court) of 31 May 2017 in case *Bakanova v. Lithuania* (application no. 11167/12), where the Court found a procedural violation of Article 2 of the Convention because of a lack of a proper criminal investigation. The judgment in the *Bakanova* case became final on 31 August 2016 in accordance with Article 44 § 2 of the Convention.

Description of the case

The case concerned a failure of the domestic authorities to ensure an effective investigation into the applicant's husband's death, who was found dead in his cabin on a private ship on a work voyage to Brazil near a Brazilian port. In the Court's view the investigation fell foul of the requirements of Article 2 of the Convention.

Regarding Individual Measures

First of all, it should be noted that the nature of the violation found by the Court concerning Article 2 of the Convention required effective investigation into the circumstances of the applicant's husband's death eliminating procedural flaws in the proceedings. The domestic legislation in the situations like the present one provides for an individual measure of a possibility of reopening the pre-trial investigation under Article 217 of the Code of Criminal Procedure of the Republic of Lithuania (Order of the reopening of the discontinued pre-trial investigation), which establishes that prosecutors under the basis of the complaints of the participants to the proceedings or on their own initiative can annul the decision to discontinue the pre-trial investigation and can adopt a new one to reopen the pre-trial investigation, if essential circumstances come to light, which would be of relevance to decide the case correctly.

It should be observed, that the applicant availed herself of the above said possibility and her request to reopen the pre-trial investigation into the circumstances of her husband's death and to decide the issue of the liability of the prosecutors, who improperly controlled the pre-trial investigation was received at the Prosecutor General's Office on 24 April 2017. Consequently, by the decision of the prosecutor of the Prosecutor General's Office of 30 May 2017 the decision of the prosecutor of the Klaipėda District Prosecutor Office to discontinue the pre-trial investigation into the circumstances of the applicant's husband's death was cancelled and the pre-trial investigation was reopened.

After the pre-trial investigation had been reopened the Prosecutor General's Office prepared a request for legal assistance from the Brazilian Authorities, wherewith it was asked to question a Brazilian doctor P.C.J., who on 24 October 2007 performed autopsy of V.B.; to provide with copies of the documents of autopsy and blood tests of V.B.; to establish whether the Brazilian police officers while investigating the reasons of V.B.'s death carried out the evaluation of the working conditions on the ship *Vega* and examined the machinery section of the ship and then to provide with copies of the documents, which would confirm the results of the examinations. The application was transmitted to the Department of Consular Service of the Ministry of Foreign Affairs on 20 September 2017. The Brazilian authorities have not yet fulfilled the request of legal aid.

Having regard to the above circumstances the Agent of the Government undertakes to keep the Committee of Ministers informed on the results of the reopened pre-trial investigation and other further developments in the above-mentioned case.

Respectfully,



Karolina Bubnyte

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