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Meeting: 1531<sup>st</sup> meeting (June 2025) (DH)

Item reference: Action Report (12/05/2025)

Communication from Lithuania concerning the case of Girdauskiene v. Lithuania (Application No. 54171/21)

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Réunion : 1531<sup>e</sup> réunion (juin 2025) (DH)

Référence du point : Bilan d'action (12/05/2025)

Communication de la Lituanie concernant l'affaire Girdauskiene c. Lituanie (requête n° 54171/21) (**anglais uniquement**)

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DGI

12 MAI 2025

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**LIETUVOS RESPUBLIKOS TEISINGUMO MINISTERIJA**  
**MINISTRY OF JUSTICE OF THE REPUBLIC OF LITHUANIA**

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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, 12 May 2025

Cc: Permanent Representation of Lithuania  
to the Council of Europe

**BY E-MAIL TRANSMISSION ONLY**

**ACTION REPORT REGARDING THE EXECUTION OF THE ECHR JUDGMENT  
IN THE CASE OF *GIRDAUSKIENĖ v. LITHUANIA* (NO. 54171/21)**

The Agent of the Government of the Republic of Lithuania before the European Court of Human Rights (hereafter – the Court) herewith submits the action report regarding the execution of the Court's judgment in the case of *Girdauskienė v. Lithuania* (application no. 54171/21). The judgment became final on 12 November 2024 in accordance with Article 44 § 2 of the Convention.

**Description of the case**

This case concerns the reimbursement of legal expenses in civil proceedings. The Court found that the distribution of the litigation costs by the Supreme Court resulted in a restriction which impaired the very essence of the applicant's right of access to a court (violation of Article 6 § 1 of the Convention).

**Regarding Individual Measures**

*Payment of the awarded compensation*

According to the judgment of the Court in the case at issue, the Government of the Republic of Lithuania was obliged to pay the applicant EUR 8 500 in respect of pecuniary and non-pecuniary damage. On 12 December 2024, the sum was transferred to the applicant's indicated bank account.

*Reopening of the proceedings regarding the violation of Article 6 § 1 of the Convention*

It should be noted that the Code of Civil Procedure of the Republic of Lithuania provides for a possibility of the re-opening of the proceedings in case of the finding of a violation of the Convention



by the Court<sup>1</sup>. To the knowledge of the Agent of the Government, the applicant did not avail herself of the right to initiate the re-opening of the proceedings within the time-limit provided for by the domestic law.

Having regard to what is stated above, it appears that there are no other individual measures available in the case at issue.

### **Regarding General Measures**

It should be noted that in the *Girdauskienė* case, the domestic legislation was not called into question and the Court has found the violation of the Convention having regard to the specific circumstances in the case at issue, namely the disproportional distribution of litigation costs (i. e., despite having proved that the owners' association had breached her property rights, the applicant was ultimately ordered to pay that association, the third party and the State an amount which was more than double the amount that she herself was reimbursed by them (see § 23 of the Court's judgement) and the fact that the Supreme Court made its decision mechanically – it did not provide any reasons relating to the applicant's procedural conduct, the costs incurred by the owners' association as a result of her claim concerning the impugned list, or any other relevant considerations (see § 22 of the Court's judgement).

As it was noted by the Court, the provisions of the Code of Civil Procedure<sup>2</sup> grant the domestic courts distributing litigation costs the possibility to depart from the quantitative rule, taking account of the parties' procedural conduct and the reasons for which the costs were incurred. The Government also provided numerous examples of domestic case-law showing the application of that provision in practice. Accordingly, the domestic law provides the courts with sufficient flexibility when deciding how to distribute litigation costs between the parties (see § 22 of the Court's judgement).

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#### **<sup>1</sup> The Code of Civil Procedure of the Republic of Lithuania**

##### *Article 366. Grounds for the re-opening of the proceedings*

1. Proceedings may be re-opened if there are the following grounds:

1) when the European Court of Human Rights holds that decisions or rulings of the courts of the Republic of Lithuania in civil cases are in breach with the Convention for the Protection of Human Rights and Fundamental Freedoms and/or its Additional Protocols <...>

<...>

##### *Article 368: Time limits for submitting the application*

1. An application for re-opening of the proceedings may be filed within three months of the date on which the person submitting it became aware, or should have become aware, of the circumstances which form the basis for the re-opening of the proceedings.

<...>

##### *<sup>2</sup> Article 93. Allocation of legal expenses*

<...>

4. The court may deviate from the rules for the allocation of legal costs set forth in paragraphs 1, 2 and 3 of this article, taking into account whether the procedural behaviour of the parties was appropriate and assessing the reasons for the legal costs.

<...>

Further, it must be noted that on 4 January 2023, in its ruling the extended panel of judges of the Supreme Court of Lithuania<sup>3</sup> formulated the rule of application and interpretation of the law in order to unify the case-law on the allocation of legal costs in cases where the court partially satisfies the claim for compensation for non-pecuniary damage, referring, among other things, to the case-law of the European Court of Human Rights: in cases where the applicant's claim for compensation for non-pecuniary damage is partially satisfied, the court, when allocating the legal costs incurred by the parties in the proceedings, must apply the rule "the loser pays" not mechanically, but in accordance with Article 93 Part 4 of the Code of Civil Procedure and the principles of justice, reasonableness, and fairness; it may derogate from the general rules on the allocation of costs by taking into account the reasons for those costs as well as the purpose and proportionality of the restriction of the right to a judicial remedy imposed by the "loser pays", the result of the allocation of costs and its impact on the parties to the dispute, also having regard to the procedural conduct of the plaintiff and the defendant, the fact whether the defendant has incurred additional costs as a result of the excessive claim made and other individual circumstances relevant to the resolution of the matter.

#### *Dissemination as a general measure*

It should be observed that under the Constitution of the Republic of Lithuania the Convention upon its ratification became a constituent part of the Lithuanian legal system and pursuant to the well-established case-law of the Constitutional Court, the Supreme Court of Lithuania and the Supreme Administrative Court of Lithuania, the Convention and the Court's case-law have direct effect in Lithuania. Thus, the dissemination of the judgment is to be considered as a general measure. Accordingly, an explanatory note regarding the judgment and its content together with its translation into Lithuanian have been placed on the official internet website of the Ministry of Justice on the following address <<https://tm.lrv.lt/lt/veiklos-sritys-1/atstovavimas-eztt/nauijenos-2/eztt-nustate-konvencijos-pazeidima-del-bylinejimosi-islaidu-atlyginimo-civiliniame-procese/>> thus, it is freely accessible to all the relevant institutions, domestic courts and other persons concerned. The Agent of the Government separately informed in writing all the domestic courts (by disseminating a circular letter *via* the National Courts Administration) about the judgment, together with an explanatory note drawing attention to the issues raised therein.

In the light of the above, the Agent of the Government believes that the provided measures should be considered as sufficient general measures adopted to execute the judgment and to prevent similar violations in the future. Thus, no further general measures are required.

Having regard to the above circumstances, the Agent of the Government concludes that the judgment in the *Girdauskienė* case is fully executed.

Respectfully,



Ričard Dzikovič  
Agent of the Government  
of the Republic of Lithuania  
before the European Court of Human Rights

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<sup>3</sup> <https://liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=02784530-a135-445b-83ee-4850901688ce>