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Meeting: 1294<sup>th</sup> meeting (September 2017) (DH)

Item reference: Action report (24/08/2017)

Communication from Lithuania concerning the case of VALIULIENE v. Lithuania (Application No. 33234/07)

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Réunion : 1294<sup>e</sup> réunion (septembre 2017) (DH)

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Communication de la Lituanie concernant l'affaire VALIULIENE c. Lituanie (requête n° 33234/07)  
**(anglais uniquement)**

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

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Vilnius, 23 August 2017

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

**BY MAIL AND E-MAIL TRANSMISSION**

**UPDATED CONSOLIDATED ACTION REPORT  
REGARDING THE EXECUTION OF THE ECHR JUDGMENT  
IN THE CASE VALIULIENĖ v. LITHUANIA (NO. 33234/07)**

The Agent of the Government of the Republic of Lithuania to the European Court of Human Rights (hereafter – the Government Agent) submits the information concerning the action report of the execution of the judgment of the European Court of Human Rights (hereafter – the Court) of 26 March 2013 in the case *Valiulienė v. Lithuania* (Application No. 33234/07). The judgment became final on 26 June 2013 in accordance with Article 44 § 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter – the Convention).

***Description of the cases***

Failure of the domestic authorities to provide adequate protection to the applicant against acts of domestic violence by her live-in partner which occurred in January and February 2001; criminal proceedings were discontinued owing to the fact that the prosecution had become time-barred, which happened as a result of the flaws in the actions of the relevant State authorities (violation of Article 3 of the Convention).

***Regarding Individual Measures***

***Payment of awarded compensation***

According to the judgment of the Court in this case, the Government of the Republic of Lithuania was obliged to pay the applicant EUR 5,000 (five thousand euros) in respect of non-pecuniary damage. The sum was converted to Lithuanian litas following the established official rate of 3.4528 litas for one euro and, following the applicant's request of 20 August 2013, it was transferred to her

indicated account. The just satisfaction form was e-mailed to [dgl\\_execution\\_just\\_satisfaction@coe.int](mailto:dgl_execution_just_satisfaction@coe.int) on 4 September 2013.

#### *Other individual measures*

Nature of the violation found by the Court concerning Article 3 of the Convention would require effective investigation of the violence sustained by the applicant and conviction of the perpetrator. However, as the process became time-barred, it appears that there are no other individual measures available in the present Case.

#### *Regarding General Measures*

At the outset the Government Agent would like to notice that the Court was satisfied that at the time relevant to the instant case Lithuanian law provided a sufficient regulatory framework to pursue the crimes attributed by the applicant to the alleged perpetrator J.H.L. (see § 78 of the Court's judgment). The origin of the violation found stemmed from the practical application of the law as the Court found that the practices at issue in the present case, together with the manner in which the criminal-law mechanisms were implemented, did not provide adequate protection to the applicant against acts of violence (see § 86 of the Court's judgment).

#### *Preventive remedies*

As regards general measures, the Government Agent would like to note that since the adoption of the Court's judgement in the above mentioned case, there were a number of practical measures taken by the authorities in order to ensure the speediness and efficiency of criminal justice mechanisms in response to similar allegations of domestic violence.

#### *Prosecutor General's Office's recommendations*

In order to ensure that the prosecutors make swift and informed decisions on prosecution and to eliminate the faults and weaknesses of the pre-trial investigations of domestic violence, the Prosecutor General approved or amended the following recommendations:

1. the recommendations for the prosecutors on closing the process by applying the expedited procedure (approved on 1 June 2015), which identified the conditions for a prosecutor to lodge with a court the application regarding the expedited procedure. The amendment of 16 August 2017 of the recommendations specified that in the cases of domestic violence when all the circumstances of domestic violence are clear and the case comes under the jurisdiction of a district court, a prosecutor is obliged to address the court within 48 hours with the application regarding the case hearing by expedited procedure;
2. the recommendations for the prosecutors on the employment of coercive measures, excluding arrest, during a pre-trial investigation (approved on 1 December 2015). The amendment of 16 August 2017 of the recommendations specified that in cases when a process cannot be closed by applying the expedited procedure a prosecutor is obliged to address the court within 48 hours for the employment of coercive measure, such as the obligation to live separately from the victim and (or) not to approach the victim closer than a prescribed distance;
3. the recommendations for the prosecutors on the assessment of the specific protection needs of victims (approved on 29 February 2016). The recommendations aim at improving the procedure for the assessment of the specific protection needs of victims of domestic violence. They establish the procedure under which the officers are required to complete a form of the assessment of the victims' protection needs in order to assess the risk for a victim to suffer negative effects of the criminal proceedings or any other negative effects and to adopt special protection measures;

4. the recommendations on the specialisation of prosecutors in the criminal proceedings and the assignment of prosecutors to pre-trial investigations, cases heard before the court, and claims (approved on 30 October 2012). The amendment of the recommendations of 7 March 2017 introduced the specialisation of prosecutors in the pre-trial investigations of domestic violence cases. It is assumed to increase the efficiency of prosecutors' activities in these cases, allow improving their skills more expediently, and to form the practice of prosecution more effectively.

On 31 August 2015 the Prosecutor General's Office issued a summary of the pre-trial investigations of domestic violence. It was stated that the protection measures in the pre-trial investigations of domestic violence were being used far too infrequently. It was recommended for the prosecutors while selecting the protection and coercive measures to obligatorily take into account the specific nature of acts of domestic violence and try to ensure the unhindered pre-trial investigation, secured from the suspect's influence, and to protect a victim from new criminal acts.

In November 2017 the Division of Criminal Prosecution of the Prosecutor General's Office plans to issue the summary of the pre-trial investigations of domestic violence organised during the 1<sup>st</sup> half of 2017, the aim of which is to analyse the data on the investigations and court hearings of this category of proceedings. The intention of the summary is also to focus on the selection of adequate and timely coercive measures. After the assessment of the identified problems and deficiencies, the guideline or instruction will be distributed among the regional prosecutor's offices.

#### *Trainings organised by the Prosecutor General's Office*

In recent years the Prosecutor General's Office paid great attention to improving skills of the prosecutors dealing with domestic violence, i.e. it organised a number of training courses (Prevention of Domestic Violence; The Interests of Victims are Most Important; Domestic Violence: Practical Skills for the Effective Intervention of Legal System), seminars and conferences (Coordinated Response of Institutions to Domestic Violence; Domestic Violence: Practice Trends and Challenges; Combating Domestic Violence: 5 Years of Experience and Perspectives).

This year alone the prosecutors participated in a number of conferences and seminars: Family Cases (Domestic Violence): Interinstitutional Cooperation (international conference organised by the National Courts Administration); Coordinated Multi-Agency Response to Domestic Violence (seminar organised by Centre for Equality Advancement); Response to Domestic Violence: Perspectives of Institutional Cooperation (seminar organised by Centre for Equality Advancement); Prevention of Domestic Violence, the Role of Institutions and Concrete Actions (conference organised by the Seimas Committee on Human Rights and the Police Department).

The Prosecutor General's Office have plans to organise the training courses and seminars for the prosecutors specialising in domestic violence on a systematic basis.

#### *Police Commissioner General's acts*

In order to implement the provisions of the Law on Domestic Violence, as well as to improve the diligence of police officers and the gathering of evidence in the domestic violence cases, the Police Commissioner General has approved the following legal acts:

1. the guidelines on the control exercised by the police officers over the enforcement of the courts' decision ordering the perpetrator to temporarily move out of the residence (approved on 30 November 2011), which regulate the actions of the police officers, who exercise the control over the enforcement of such court's decisions;
2. the guidelines on the removal of a perpetrator (approved on 14 December 2011), which determine the actions of the police officers during the enforcement of the court's decision ordering the perpetrator to temporarily move out of the residence if the perpetrator lives together with the victim of domestic violence;
3. the guidelines on police officers' response to the reports on domestic violence (approved on

- 31 January 2012), which regulate the actions of the officer of the operational management unit while responding to the reports on domestic violence, as well as the actions of police officers on the spot and the actions of the pre-trial investigation or other authorised officers after receiving the primary data on the potential act of domestic violence;
4. the order on the application of the Law on the Protection from Domestic Violence (passed on 3 May 2017), which imposes obligation on the police officers to ensure the effective response to the cases of domestic violence, the proficiency of the pre-trial investigations, and close cooperation with other authorities involved. Following the order, the officers have to make video and audio recordings (up to 30 seconds or (and) 100 MB) of the primary ambience of the incident. It further specifies that if during the verification of the primary information it appears that there has not been any violence, though the primary report included data on the potential acts of domestic violence, not later than in three days the officers have to re-examine all the related circumstances of the incident. In cases of the repeated reports (within the last two years) on domestic violence in the same family, the officers have to apply the targeted individual preventive measures, such as at least once in two weeks visiting the family and inquiring the victim about the possible threats or other aims of influence made by the perpetrator and at least once a week monitoring of the supervision measures imposed on the perpetrator, or conducting preventive conversations and suggesting the perpetrator participating in the programmes (courses) for the prevention of drug and alcohol consumption, resocialisation, modification of violent behaviour, and other available programmes. Furthermore, each operating unit of the police headquarters are obliged to have no less than two officers specialising in the pre-trial investigations of domestic violence. By the same order the Lithuanian Police School has to prepare and submit the proposals of how to effectively and within the shortest possible time frame instruct the officers in the recognition, prevention, detection, and investigation of domestic violence, and to prepare the implementation framework;
  5. the guidelines on arranging the provision, pickup, and storage of the electronic alerting equipment (approved on 8 May 2017), which establish the grounds for the provision and pickup of the electronic alerting equipment intended for the victims of domestic violence.

#### *Trainings organised by the Police Department*

The Police Department also pays great attention to improving skills of the police officers dealing with domestic violence, it organises a number of training courses, seminars and conferences, as well as takes awareness raising measures.

In 2014 the Lithuanian Police School organised 8 two-day courses for the police officers on the protection from domestic violence. Furthermore, the school together with the association Vilnius Women House and the Embassy of France organised three-day courses on the prevention of domestic violence and protection of victims. The same year the Lithuanian Police School issued the methodological recommendations for the police officers who deal with the domestic violence cases. In 2015 there was prepared advanced qualification programme "Police Officers' Diligence in Combating Domestic and Gender-Based Violence". 30 police officers participated in the training course "Police Officers' Capacity Building in Combating Domestic and Gender-Based Violence. Training for Instructors". Furthermore, in 2016 502 police officers took part in the advanced qualification programme "Police Officers' Diligence in Combating Domestic and Gender-Based Violence". There was produced educational film "Combating Domestic and Gender-Based Violence" for the training of the police officers.

In 2016, for the fourth consecutive year, the Police Department organised the conference to discuss the issues of domestic violence. The conference was attended by more than 100 representatives of the Seimas, the Police Department, non-governmental organisations, and other law enforcement authorities. This year the conference focused on the integrated services for the families which suffered domestic violence, assistance to victims of domestic violence, and the protection of

victim's rights. The police officers also took participation in the conference "Centres of Specialised Services – True Stories and Effective Aid", organised by the Women's Issues Information Centre, as well as the conference "Women's Rights in Lithuania – Victories Achieved and Future Challenges", organised by Vilnius Women House.

In order to promote the intolerance to domestic violence, the Police Department created short video clips, which were shown on TV, outdoor advertising media, and displays in buses. Furthermore, it published pamphlets and leaflets encouraging not to tolerate domestic violence and call for the assistance. There were indicated addresses of assistance centres, phone numbers of hotlines and other relevant information.

The Government Agent asserts that all the above mentioned legal acts as well as the trainings of the relevant actors, assessed in the general context together with the procedural instruments, imply the speediness and efficiency of criminal justice mechanisms in response to the allegations of domestic violence, and thus should preclude situations similar to that of the applicant.

Herewith the Agent of the Government further notes that on 27 June 2016 the Constitutional Court of the Republic of Lithuania passed the ruling on dismissing criminal proceedings after the expiry of a statutory limitation period for criminal liability. In the ruling the Constitutional Court declared the provisions of Paragraph 1 of Article 235, Paragraph 4 of Article 254, and Item 1 of Article 327 of the Code of Criminal Procedure, which regulated the dismissal of a case upon the expiry of a statutory limitation period for criminal liability, to be in conflict with the Constitution, insofar as, under these provisions, a case was to be dismissed by the court without assessing charges brought against the accused and without ascertaining whether the accused had reasonably been charged with having committed a crime or whether the acquitted person was reasonably acquitted of a crime with which he/she had been charged.

It should be observed that under the Law on the Constitutional Court, the rulings adopted by the Constitutional Court of the Republic of Lithuania have the power of law and are binding to all state institutions and courts. Accordingly, the expiry of the statutory limitations would not preclude the national court from acting in such a way that the truth in the criminal case would be established and the question of the guilt of the person accused of having committed the crime would be fairly resolved.

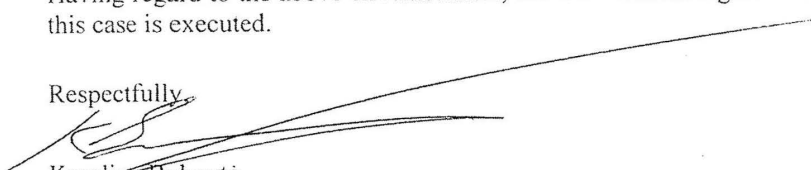
#### *Dissemination*

The Court's judgment in the present Case together with its translation into Lithuanian is placed on the official website of the Ministry of Justice, thus it is freely accessible to all the relevant institutions, domestic courts and other interested persons.

In addition it could be mentioned that prior to the adoption of the judgment within the context of the preparation of the unilateral declaration with regard to the claims of the applicant, the Government Agent separately informed relevant domestic institutions about the communication also drawing attention to the problematic aspects of the present case, namely the improper investigation of the alleged domestic violence, and informing about the standards developed by the European Court of Human Rights in this regard.

Having regard to the above circumstances, the Government Agent concludes that the judgement in this case is executed.

Respectfully



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