



Lithuanian authorities failed to effectively investigate complaints of domestic violence

In today's Chamber judgment in the case of [Valiulienė v. Lithuania](#) (application no. 33234/07), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights.

The case concerned the complaint by a woman who was a victim of domestic violence about the authorities' failure to investigate her allegations of ill-treatment and to bring her partner to account.

The Court found that the authorities' application of the code of criminal procedure in Ms Valiulienė's case had not provided her with adequate protection against acts of domestic violence. In particular, there had been delays in the criminal investigation and the public prosecutor had decided to discontinue the investigation.

Principal facts

The applicant, Loreta Valiulienė, is a Lithuanian national who lives in Panevėžys (Lithuania).

On 14 February 2001, Ms Valiulienė applied to the city district court to bring a private prosecution, stating that she had been beaten by her partner J.H.L. on several occasions in January and February 2001. In January 2002, a judge of that court forwarded her complaint to the public prosecutor, ordering him to start his own pre-trial criminal investigation. J.H.L. was charged with having injured her. The investigation was subsequently suspended several times, due to J.H.L.'s failure to appear in court and insufficient evidence, and reopened on appeal by a higher prosecutor on the ground that the investigation had not been sufficiently thorough.

The prosecutor discontinued the investigation in June 2005, holding that under the new code of criminal procedure, following a legislative reform in May 2003, a prosecution in respect of minor bodily harm should have been brought by the victim in private capacity. The city district court upheld that decision in September 2005, noting that a prosecutor had a right, but not an obligation, to open an investigation. There was no information in the case file to indicate that the case was of public interest or that the victim could not protect her rights by means of a private prosecution.

Ms Valiulienė subsequently lodged another request to bring a private prosecution, which was eventually refused without examination on 8 February 2007, as the prosecution had become time-barred.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Complaints, procedure and composition of the Court

Relying in substance on Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 8 (right to respect for private and family life), Ms Valiulienė complained that the authorities had failed to investigate her allegations of repeated domestic violence and to bring her partner to account, and that the length of the criminal proceedings had been excessive.

The application was lodged with the European Court of Human Rights on 11 July 2007.

On 1 September 2011, the Government of Lithuania presented the Court with a unilateral declaration, acknowledging a violation of Article 8. On 5 June 2012, the Court examined that declaration and decided not to accept it.

Judgment was given by a Chamber of seven judges, composed as follows:

Guido **Raimondi** (Italy), *President*,
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
İşıl **Karakaş** (Turkey),
Paulo **Pinto de Albuquerque** (Portugal),
Helen **Keller** (Switzerland),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 3

The Court noted that Ms Valiulienė had addressed the city district court as early as February 2001 to bring a private prosecution against her partner. She had provided specific descriptions of each incident of ill-treatment and had indicated the names of several witnesses. The Court found that the Lithuanian authorities had received sufficient information from her to raise a suspicion that a crime had been committed. As of that moment, they had therefore been under an obligation to act upon her criminal complaint.

While the authorities had initially acted without undue delay, the investigation had been suspended repeatedly following the transfer of the case to the public prosecutor. The fact that the prosecutor's decisions had been quashed by the higher prosecutor as not being thorough enough indicated a serious flaw on the part of the State.

Furthermore, even though the Lithuanian Code of Criminal Procedure had changed in May 2003, the prosecutor had decided to return the case to Ms Valiulienė for private prosecution only two years after the legislative reform, in June 2005. The decision had been upheld despite Ms Valiulienė's plea that it would entail the risk of her partner enjoying impunity, given that the time-limit for prosecution was approaching. The Court underlined that even after the legislative reform it would have been possible for a public prosecutor to investigate acts causing minor bodily harm, provided that this was in the public interest.

As a result of the prosecutor's decision, the circumstances of the case had never been established by a competent court of law. Therefore, one of the purposes of criminal prosecution, namely the effective protection against acts of ill-treatment, had not been achieved in Ms Valiulienė's case. The Court concluded unanimously that there had been a violation of Article 3 on that account.

In view of that finding, the Court held, by a majority, that it was not necessary to examine the complaint separately under Article 8.

Just satisfaction (Article 41)

The Court held that Lithuania was to pay Ms Valiulienė 5,000 Euros (EUR) in respect of non-pecuniary damage.

Separate Opinions

Judge Pinto de Albuquerque expressed a concurring opinion and Judge Jočienė expressed a dissenting opinion. These separate opinions are annexed to the judgment.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.