

About the European Court of Human Rights



The European Court of Human Rights was set up under the Convention for the Protection of Human rights and Fundamental Freedoms of 1950. Since 1998 it has sat as a full-time international judicial body examining applications of natural persons, groups of persons and non-governmental organizations alleging violations of their rights or freedoms established in the European Convention on Human Rights or its' Additional Protocols. In respect of Lithuania, the Convention and its' Protocols no. 4, no. 7 and no. 11 came into force on 20 June 1995. The Protocol of the Convention no. 1 came into force on 24 May 1996, the Protocol no. 6 came into force on 8 July 1999, and the Protocol no. 13 – on 1 May 2004.

The Court consists of a number of judges equal to the number of member States (the High Contracting Parties) to the Convention. The judges sit on the Court in their individual capacity and do not represent their State, in their office they are independent and impartial arbiters. Judges are elected for the period of six years by the Parliamentary Assembly, which votes on a shortlist of three candidates put forward by States. Judges may be re-elected. However, the terms of office of one-half of the judges elected at the first election shall expire at the end of three years. According to the Rules of the Court, the Court is divided into five Sections, the composition of which is geographically and gender balanced and reflects the different legal systems among the Contracting States. The composition of the Sections alternates every three years.

From June 1994 until 2004 (2 terms of office) the judge from Lithuania in the European Court of Human Rights was Pranas Kūris, and from November 2004 – Danutė Jočienė.

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party. Applications against the member States of the Convention (and the Protocols thereto) alone are admitted by the European Court of Human Rights. Only alleged or real breaches of human rights or freedoms committed by the officials or institutions of State authorities, administrative or judicial and other bodies may be complained of to the Court. The Court shall not examine the applications concerning breaches of human rights or freedoms committed by private persons, companies or organisations.

The Court shall declare the application admissible if it meets several formal criteria:

- 1) all the domestic remedies must have been exhausted;
- 2) the application was submitted within a period of six months from the date on which the final decision was taken;
- 3) substantially the same application has not been submitted for investigation to another international institution (for ex. the Human Rights Council) and
- 4) the application is not anonymous.

Technically, examination of every application to the European Court of Human Rights follows three stages where the Court takes the following decisions:

- 1) admissibility of the application;

2) friendly settlement and

3) the judgment on the merits of the application.

If the Court declares the application inadmissible, its examination is assumed to be closed. In case of friendly settlement, the State and the applicant negotiate the conditions (monetary compensation, certain actions of the State etc.) which under consent of the applicant constitute a final resolution of the application. By adopting the judgment on the merits of the application, the Court finds a violation or a non-violation of the right or freedom.

Lately the Court mostly decides on admissibility of the application at the same time as on its merits under Article 29 § 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

When the Court finds that there has been a violation, it may adjudge a monetary compensation to be paid within three months from the date of pronouncing the judgment. As a rule, the procedure before the Court is a written procedure and public hearings are held only in exceptional cases. There is a legal aid scheme set up under the Rules of Court for persons who do not have sufficient means, however, the applicant may be granted legal aid only after declaring the application admissible.

According to Article 46 of the Convention, responsibility for supervising the execution of judgments lies within the competence of the Committee of Ministers of the Council of Europe. Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements provide for that the execution of judgment of the European Court of Human Rights may include: 1) payment of just satisfaction adjudged by the Court (monetary compensation) as well as costs and expenses; 2) taking other individual measures besides payment of respective sums; 3) adoption of general measures seeking to prevent new violations similar to that or those found or putting an end to continuing violations.