



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

THIRD SECTION

**CASE OF PUZINAS v. LITHUANIA**

*(Application no. 44800/98)*

JUDGMENT

STRASBOURG

14 March 2002

**FINAL**

*14/06/2002*

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.



**In the case of Puzinas v. Lithuania,**

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Mr I. CABRAL BARRETO, *President*,

Mr L. CAFLISCH,

Mr P. KŪRIS,

Mr R. TÜRMEŅ,

Mr J. HEDIGAN,

Mrs M. TSATSA-NIKOLOVSKA,

Mrs H.S. GREVE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 21 February 2002,

Delivers the following judgment, which was adopted on that date:

**PROCEDURE**

1. The case originated in an application (no. 44800/98) against the Republic of Lithuania lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Lithuanian national, Alvydas Puzinas (“the applicant”), on 4 September 1998.

2. The Lithuanian Government (“the Government”) were represented by their Agent, Mr G. Švedas, Deputy Minister of Justice.

3. The applicant alleged, in particular, a violation of Article 8 of the Convention in that his letters had been opened in his absence and censored while in prison.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

6. By a decision of 14 March 2000, the Chamber declared the application partly admissible.

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Third Section (Rule 52 § 1).

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

8. Since 20 March 1991 the applicant has been serving in the Sniego Prison in Vilnius a sentence of 13 years' imprisonment for aggravated murder. By a Presidential decree of pardon of 27 June 1998 the applicant's sentence was reduced by two years.

9. On 21 July 1998 the applicant applied to the prison administration, requesting his transfer to another prison. The prison administration refused his request. The applicant unsuccessfully complained that he was unable to change prisons to various Lithuanian and international authorities and NGOs, including the Council of Europe, the Council of the Baltic Sea States ("the CBSS") and Amnesty International.

10. On 20 October 1998 he received a letter dated 16 October 1998 from the CBSS Commissioner on Democratic Institutions and Human Rights based in Copenhagen. The letter had been opened when he received it.

11. On 2 November 1998 he received a letter dated 21 October 1998 from the Secretariat of the European Commission of Human Rights. The letter had also been subjected to initial screening by the prison administration before the applicant had access to it.

12. On 3 December 1998 the applicant was reprimanded in disciplinary proceedings. He lodged with the Ombudsman a complaint concerning the reprimand and alleged breaches of the freedom of his correspondence.

13. On 22 December 1998 the Ombudsman found that the prison administration had censored a letter from the applicant to his wife in which he had accused the prison staff of theft. The Ombudsman found that, as a consequence, on 30 October 1998 the prison administration had disciplined the applicant for slander. The Ombudsman held that the applicant's letters to his wife pertained to the field of his private life, and that his allegations of theft did not constitute any formal suggestions, applications or complaints for the purpose of Rule 7 § 3 (4) of the Prison Rules (see the 'Relevant domestic law' part below). The Ombudsman concluded that the disciplinary penalty was unlawful, and suggested that it should be lifted. The Ombudsman also found that the letter from the CBSS of 16 October 1998 had been opened. He held that the applicant's right to respect for correspondence under Article 8 of the European Convention of Human Rights was "almost inviolable", but that the State was allowed to censor prisoners' letters in certain cases. The Ombudsman found no violation of the applicant's right to respect for his correspondence.

14. On the basis of the Ombudsman's conclusions, on 29 December 1998 the Director of the Penitentiary Department lifted the disciplinary penalty.

## II. RELEVANT DOMESTIC LAW

15. Article 22 of the Constitution provides that correspondence of a person is inviolable. Persons shall be protected by courts from arbitrary or unlawful interference with that right.

16. Article 41 of the Prison Code (*Pataisos darbu kodeksas*) provides that “convicted persons’ correspondence shall be censored”.

17. Rule 7 § 1 (7) of the Prison Interim Rules (*Pataisos darbu įstaigų vidaus tvarkos laikinosios taisyklės*) states that “convicted persons’ letters (except those to a prosecutor) sent from or received in a prison are subject to censorship”. Rule 7 § 1 (8) states that any letters containing “cryptography [and] cynical or threatening statements shall not be sent to the addressee”. Rule 7 § 3 (4) provides that written “suggestions, applications or complaints containing insults, jargon or obscenities shall not be sent, [and that] disciplinary penalties may be imposed on the persons who have signed” such papers.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

18. The applicant alleged that the control and censorship of his correspondence by the prison administration amounted to a violation of Article 8 of the Convention, which states as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

19. The Government did not comment on these allegations, acknowledging that censorship of the applicant’s correspondence was permitted under the Prison Code.

20. The Court notes that the Government do not contest the facts alleged by the applicant. It has been established that the letters addressed to the applicant by the CBSS (letter of 16 October 1998), the Secretariat of the Commission (letter of 21 October 1998), as well as the applicant’s letter to his wife (of an unspecified date, see § 12 above) were opened in his absence and censored by the prison administration. There was, therefore, an interference with the applicant’s right to respect for his correspondence

under Article 8 of the Convention, which can only be justified if the conditions of the second paragraph of the provision are met. In particular such interference must be “in accordance with the law”, pursue a legitimate aim and be necessary in a democratic society in order to achieve that aim (*Valašinas v. Lithuania*, no. 44558/98, 24.7.2001, § 128, *to be reported in ECHR 2001*).

21. The interference in the present case had a legal basis, namely Article 41 of the Prison Code, and the Court is satisfied that it pursued the legitimate aim of “the prevention of disorder or crime”. However, as regards the necessity of the interference, the Government have not submitted any reasons which could justify this control of his correspondence with international institutions and his wife. Accordingly, the interference complained of was not necessary in a democratic society within the meaning of Article 8 § 2 of the Convention (see, *mutatis mutandis*, the *Valašinas* judgment cited above, § 129).

22. There has consequently been a violation of Article 8.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

### A. Damage

24. The applicant requested the Court to afford him just satisfaction, but specified no further claims in this regard.

25. The Government did not submit any comments in this respect.

26. The Court, bearing in mind its finding above regarding the applicant’s complaint, considers that he suffered some moral damage as a result of the screening of his correspondence (*loc. cit.*, § 141). Making its assessment on an equitable basis, the Court awards the applicant 300 euros (EUR) for non-pecuniary damage.

### B. Default interest

27. According to the information available to the Court, the statutory rate of interest applicable in Lithuania at the date of adoption of the present judgment is 5.95 % per annum.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 8 of the Convention;
2. *Holds*:
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 300 (three hundred euros) in respect of non-pecuniary damage to be converted into the national currency of the respondent State at the rate applicable on the date of settlement;
  - (b) that simple interest at an annual rate of 5.95 % shall be payable from the expiry of the above-mentioned three months until settlement.

Done in English, and notified in writing on 14 March 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

Ireneu CABRAL BARRETO  
President