



## Court discontinues examination of Lithuanian businessman's complaint about breach of his private and family life

In today's Chamber judgment in the case [Borisov v. Lithuania](#) (application no. 9958/04), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that **the applicant's complaint under Article 8 (right to respect of private and family life) had been resolved, and it struck the case out of the list of cases pending for examination before it.**

The case concerned the complaint of a Russian-born businessman, living in Lithuania and having financed the election campaign of former Lithuanian President Rolandas Paksas, that he had lived in uncertainty, and that his private and family life had suffered as a result of an order to deport him and the related judicial proceedings which had lasted several years.

### Principal facts

The applicant, Jurij Borisov, is a Russian national who was born in 1956 in Primor Oblast, (now in the Russian Federation), and lives in Vilnius, Lithuania, where he followed his father, posted there with the military in 1962. Mr Borisov's parents, born respectively in 1926 and 1931, also live in Lithuania and are Lithuanian citizens. He has been married since 1977 to a Lithuanian with whom he has two grown-up sons and a young daughter.

In March 1990, when Lithuania restored its independence, Jurij Borisov was an officer in the then Soviet Union army, from which he was discharged in 1991 when he started a business in aviation-related activities. He obtained a Lithuanian citizenship later that year and a Lithuanian passport the following one. Although the national authorities found subsequently that Mr Borisov's passport had been issued in breach of the law because Soviet Army personnel could not be granted Lithuanian citizenship, they allowed him to keep his Lithuanian passport.

In June 2002, Mr Borisov further obtained Russian citizenship and a Russian passport for which he had asked in order to facilitate his business activities. Around that time, he also supported the campaign of one of the presidential candidates, Rolandas Paksas, among other things by donating to it around 350 000 Euros (EUR). Mr Paksas was elected President of Lithuania on 5 January 2003.

A week after Mr Borisov informed the Lithuanian authorities, in early Spring 2003, that he held a Russian citizenship and passport, he lost his Lithuanian citizenship as he could not have dual nationality. In April 2003, the President of Lithuania issued a decree granting him Lithuanian citizenship as an exceptional measure, citing Mr Borisov's special contribution to the Lithuanian State as justification.

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<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

Following an inquiry initiated by the Seimas (parliament), in December 2003 the Constitutional Court annulled the President's decree as it found it unconstitutional. As a result, Mr Borisov lost his Lithuanian citizenship.

In March 2004, the Constitutional Court found too that the President had grossly violated the Constitution by granting unlawfully Lithuanian citizenship to Mr Borisov, as well as by tipping him off that the law enforcement institutions had been investigating him and tapping his telephone conversations. Rolandas Paksas was impeached on 6 April 2004.

In November 2004, Mr Borisov was convicted of having threatened the State President. In particular, the courts found that he had asked to be appointed as a presidential advisor, and to be granted Lithuanian citizenship and other favours, failing which he threatened to publicly disclose information potentially damaging for the President's reputation.

Following his loss of Lithuanian citizenship, Mr Borisov applied in 2004 for a permanent residence permit, which was refused. A decision was taken further to deport him and to ban his re-entry in Lithuania for one year. He appealed numerous times before the courts. The case was repeatedly returned for fresh examination until the Supreme Administrative Court ended the proceedings about six years later concluding that Mr Borisov no longer posed a danger to national security. During the deportation proceedings, Mr Borisov was granted temporary residence permits and finally, in August 2010, he received a permanent residence permit.

## Complaints, procedure and composition of the Court

Relying in particular on Article 8, Mr Borisov complained that he had to endure long-lasting uncertainty regarding his situation, as a result of protracted judicial proceedings influenced by political pressure.

The application was lodged with the European Court of Human Rights on 27 February 2004.

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

Françoise **Tulkens** (Belgium), *President*,  
David Thór **Björgvinsson** (Iceland),  
Dragoljub **Popović** (Serbia), *appointed to sit in respect of Lithuania*,  
Giorgio **Malinverni** (Switzerland),  
András **Sajó** (Hungary),  
Işıl **Karakaş** (Turkey),  
Paulo **Pinto de Albuquerque** (Portugal), *Judges*,

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

## Decision of the Court

### Article 8

The Court found that it was no longer justified to examine the merits of the case for the reasons set out below.

According to Article 37 § 1 (b) of the Convention, it was possible to strike out a case off the list of cases pending before the Court if the matter had been resolved. The Court therefore examined whether the risk of Mr Borisov's deportation still persisted and

whether the measures taken by the Lithuanian authorities constituted adequate redress in respect of his complaint.

It noted that his deportation had been prevented with a final court decision and that a permanent residence permit had been granted to Mr Borisov in 2010. Thus, the facts of which he complained had ceased to exist.

The Court then observed that Mr Borisov had been under threat of deportation and thus had experienced insecurity and legal uncertainty in Lithuania for six years and seven months. When the deportation order was issued in 2004, he had already lived for 42 years in Lithuania, married, fathered three children, founded and run a company, and paid taxes. Therefore, he had established personal, economic and social ties in that country. While noting with deep concern that the decision-making in Mr Borisov's case had been politicised, the Court nonetheless observed that while his administrative proceedings had been pending, Mr Borisov had been able to stay in Lithuania as temporary residence permits had been issued to him. Consequently, Mr Borisov had not been deported, nor had he suffered restrictions to his family and private life.

As a result, the Court found that the complaint had been resolved.

### Other articles

Mr Borisov's other complaints were rejected.

*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.