

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

SECOND SECTION

CASE OF RUTKAUSKAS v. LITHUANIA

(Application no. 15816/20)

JUDGMENT

STRASBOURG

26 August 2025

This judgment is final but it may be subject to editorial revision.



In the case of Rutkauskas v. Lithuania,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Tim Eicke*, President*,
Jovan Ilievski,
Gediminas Sagatys*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 15816/20) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 25 March 2020 by a Lithuanian national, Mr Erikas Rutkauskas ("the applicant"), who was born in 1992, lives in Pakriauniai and was represented by Mr S.H. Brady Heath, a lawyer practising in London;

the decision to give notice of the application to the Lithuanian Government ("the Government"), represented by their Agent at the time, Ms K. Bubnytė-Širmenė;

the parties' observations;

Having deliberated in private on 1 July 2025,

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

SUBJECT MATTER OF THE CASE

1. The applicant is a Jehovah's Witness and religious minister. Having been called on under the Law on Conscription to perform military service in Lithuania, he refused on the grounds of his religious beliefs and conscience. His request to perform civilian service instead was not answered by the military authorities, which on 7 September 2015 also decided not to exempt the applicant from initial mandatory military service. The applicant challenged their decisions in the Vilnius Regional Administrative Court, which on 31 October 2017 dismissed the applicant's appeal.

2. The applicant then lodged an appeal with the Supreme Administrative Court, asking the latter to suspend the case and to refer a question to the Constitutional Court on whether the State's failure to include an exemption in the Law on Conscription from both mandatory military service and alternative national defence service for conscientious objectors breached the right to freedom of religion. The applicant also stated that the military authorities had not assessed his request to perform alternative civilian service, and that fact had been overlooked by the first instance court.

3. By a final ruling of 16 October 2019 the Supreme Administrative Court upheld the impugned decisions. It referred to the Constitutional Court's ruling of 4 July 2017 and the Supreme Administrative Court's prior ruling of 10 April 2019 (see *Teliatnikov v. Lithuania*, no. 51914/19, §§ 28-30, 7 June 2022) and held that the constitutional duty of a citizen to perform

mandatory military service or alternative national defence service applied both to ministers of churches and religious organisations that were considered traditional in Lithuania, and also to ministers of non-traditional religious communities and associations. There was thus a legal basis for holding that the military authorities' decision not to release the applicant from mandatory military service was lawful. Furthermore, the questions related to the applicant's status as subject to military conscription, such as whether he was medically fit to perform such service, or which type of service – military or alternative national defence service – should apply to him, or what the conditions of such service should be, were not the subject matter of the case.

4. The applicant complained under Article 9 of the Convention that despite his genuinely held religious beliefs and his conscience, he was denied the right to refuse military service. Even though he had never denied his civic obligations, no alternative civilian service had been provided for by Lithuanian law.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

A. The Government's request to strike the application out of the Court's list of cases

1. The parties' submissions

(a) The Government

5. At the outset the Government emphasised their position that, in the light of the circumstances of the case and the execution process of the Court's judgment in *Teliatnikov v. Lithuania* (no. 51914/19, 7 June 2022), the present application should be struck out of the Court's list of cases. They submitted that following the Court's judgment in *Teliatnikov*, the domestic authorities had immediately identified the need for systemic reform of the alternative national defence service and had taken steps to remedy the relevant legal framework, notably by drawing up guidelines for draft legislation. In their observations of 21 September 2023, the Government also stated that they undertook to keep the Court informed on further developments in the adoption of provisions amending the legal framework in question.

6. The Government further argued that, even though the applicant had been affected to some extent by the decisions of the domestic authorities, it was of the utmost importance to note that he had never faced or would face the risk of actual mandatory military service or alternative national defence service. Firstly, the military authority by the Order No. V-515 of 7 September 2015 suspended the call of conscripts for military service that year as there were enough conscripts willing to perform military service.

Besides, the applicant had not been called up for initial mandatory military service the following year either. Secondly, having taken into account the applicant's date of birth, which is in 1992, and Article 5 § 2 of the Law on National Conscription, which set forth that conscripts aged from nineteen to twenty-six could be summoned to perform military service it might be stated that he would never be called up for initial mandatory military service again as he would not meet the age requirement. Thirdly, being aware of the problematic issue, which was identified by the Court in its judgment of 7 June 2022 in the *Teliatnikov* case, the military authorities themselves apply transitional measures aimed to prevent persons from finding themselves in a situation similar to that of the applicant and suspend the call up to perform mandatory military service of persons who submit requests to perform alternative national defence service independent of military control and supervision until such is established.

(b) The applicant

7. The applicant submitted that the Government's request ought to be dismissed for three reasons. Firstly, the amendments that the State might adopt in the future would obviously have no impact on the violation of his own rights, which had occurred more than nine years previously when his application for conscientious objector status had been rejected. Secondly, the Government had only provided the Court with general proposals which did not have the force of law. Thirdly, many of the serious defects in the Law on Conscription identified by the Court in its judgment in *Teliatnikov* were not being addressed in the legislative process, in particular the creation of an alternative civilian service.

2. The Court's assessment

8. The Court reiterates that in order to conclude that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention, it must establish: (i) whether the circumstances complained of by the applicant still obtain and (ii) whether the effects of a possible violation of the Convention on account of those circumstances have been redressed (see *Konstantin Markin v. Russia* [GC], no. 30078/06, § 87, ECHR 2012 (extracts), and *R.M. v. Latvia*, no. 53487/13, § 135, 9 December 2021). On the basis of the materials that the parties provided, the Court does not find it proven by the Government that the situation complained of by the applicant has been resolved for the purposes of Article 37 § 1 (b). The Court notes, in particular, that the impugned decisions date back to 2015 and have not been quashed (see also *Teliatnikov*, cited above, §§ 48, 49 and 64-67). Moreover, it has not been submitted that an alternative civilian service, the lack of which the applicant had complained of, had been provided for by Lithuanian law. It

therefore dismisses the Government's request to strike the application out of its list.

B. Admissibility

9. The Court further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

C. Merits

1. The parties' submissions

10. The applicant, referring to the Court's judgment in *Teliatnikov* (cited above), argued that the State's rejection of his application for conscientious objector status had interfered with his right to freedom of thought and conscience as safeguarded by Article 9 of the Convention. The system in Lithuania failed to strike a fair balance between the interests of society and those of persons like himself, who had deeply and genuinely held beliefs. Accordingly, the refusal by the State to respect his conscientious objection to military service had not been necessary in a democratic society.

11. The Government did not put forward any arguments on the merits of the case.

2. The Court's assessment

12. The general principles on freedom of thought, conscience and religion as one of the foundations of a "democratic society" within the meaning of the Convention, and the States' margin of appreciation in this area, have been set out in *Adyan and Others v. Armenia* (no. 75604/11, §§ 63-65, 12 October 2017).

13. The Court has also held that any system of compulsory military service imposes a heavy burden on citizens. It will be acceptable if it is shared in an equitable manner and if exemptions from this duty are based on solid and convincing grounds. However, a system which imposes on citizens an obligation which has potentially serious implications for conscientious objectors, such as the obligation to serve in the army, without making allowances for the exigencies of an individual's conscience and beliefs, would fail to strike a fair balance between the interests of society as a whole and those of the individual (see *Bayatyan v. Armenia* [GC], no. 23459/03, §§ 124-25, ECHR 2011; *Adyan and Others*, cited above, § 66, and *Teliatnikov*, cited above, § 96).

14. In *Teliatnikov* (cited above, §§ 97-110), the Court found that the system of mandatory military service failed to strike a fair balance between the interests of society as a whole and those of the applicant, who had never

refused to comply with his civic obligations in general. The Court took note of the limited examination, at the domestic level, of the applicant's grievance under Article 9 of the Convention with regard to his conscientious objection and his request to perform alternative civilian service. The Court found in this context the existing alternative national defence service to be intrinsically linked to military service and therefore considered that it could not be seen as a separate civilian service. Accordingly, the refusal by the State to respect the applicant's conscientious objection to military service had not been necessary in a democratic society and thus in breach of Article 9 of the Convention.

15. In the present case, the Court notes at the outset that the Government have admitted that the present case concerned the same factual circumstances as those examined by the Court in *Teliatnikov*. The applicant, just as Mr Teliatnikov, as a member of the Jehovah's Witnesses, sought to be exempted from military service on the ground of his genuinely held religious convictions, and had referred to those grounds in his request to the military authority in 2015 (see paragraph 1 above and *Teliatnikov*, cited above, § 8). The refusal of this request for exemption therefore amounted to an interference with the applicant's right to freedom of thought and conscience under Article 9 (compare also *Teliatnikov*, cited above, §§ 91-92).

16. That interference had a basis in law, namely the Law on Conscription. The Court also considers it unnecessary to determine conclusively whether the aim of the protection of public safety and the rights and freedoms of others was legitimate for the purposes of Article 9 § 2, since, even assuming that it was, the interference was in any event incompatible with that provision (compare also *Teliatnikov*, cited above, §§ 93-94). Namely, the Court observes that the impugned decision was based on a system which did not allow any conscience-based exceptions to mandatory military service or service intrinsically linked to it and did not consider the performance of alternative civilian service. It failed to strike a fair balance between the interests of society and those of individuals with genuinely held religious convictions. It therefore cannot be considered as necessary in a democratic society (compare also *Teliatnikov*, cited above, §§ 95-110).

17. In the light of the foregoing, the Court finds that there has been a violation of Article 9 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The applicant claimed 2,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses incurred before the Court.

19. The Government drew the Court's attention to its judgment in *Teliatnikov*, in which the Court – having examined the same factual circumstances – had decided that the damage suffered by Mr Teliatnikov would be sufficiently compensated for by its finding of a violation of

Article 9 of the Convention, even though Mr Teliatnikov had asked the Court for an award in respect of non-pecuniary damage.

20. The Government pointed out that the applicant's lawyer had already represented the applicant in *Teliatnikov*. Therefore, his claim in respect of legal services provided in the proceedings before the Court was excessive and unfounded.

21. The Court considers that the applicant has suffered non-pecuniary damage on account of the violation it has found. It considers, having regard to the particular circumstances of the case and its findings in *Teliatnikov* (cited above, § 115), that such damage is sufficiently compensated for by its finding of a violation of Article 9 of the Convention.

22. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000 in respect of costs and expenses incurred in the proceedings before it, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Dismisses* the Government's request to strike the application out of the Court's list of cases;

2. *Declares* the application admissible;

3. *Holds* that there has been a violation of Article 9 of the Convention;

4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 August 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Tim Eicke President