

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

SECOND SECTION

DECISION

Application no. 32947/20
Ilona KIŪDYTĖ
against Lithuania

The European Court of Human Rights (Second Section), sitting on 16 December 2025 as a Committee composed of:

Péter Paczolay*, President*,
Gediminas Sagatys,
Stéphane Pisani*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 32947/20) 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 8 July 2020 by a Lithuanian national, Ms Ilona Kiūdytė ("the applicant"), who was born in 1979, lives in Vilnius district and was represented by Mr T. Jurgelionis, a lawyer practising in Vilnius;

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

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's complaint that she was unable to take up employment in the private sector in parallel with her current job in the civil service.

2. The applicant is head of the Third Division for Legal Persons in the Audit Department at the State Tax Inspectorate ("the STI").

3. On 12 April 2018 the applicant asked the STI to allow her to take up secondary employment as the director of a private-sector company ("the company" – see also paragraph 6 below). The applicant informed the STI of her intended work schedule (which was to be part-time) and of the duties she

intended to perform as director: management of the company's personnel and of its commercial and organisational activities.

4. On 16 May 2018 the Commission for Examining STI Civil Servant Requests for Permission to Engage in Secondary Employment ("the Commission") refused the applicant's request, referring to a potential conflict of interest.

5. The applicant lodged a complaint with the Vilnius Regional Administrative Court, arguing that the Commission had not properly substantiated its decision. The applicant submitted that, prior to her request to take up secondary employment, she had entered into an agreement with the company, which was engaged in seasonal activities, whereby she would be paid a monthly salary of 1,000 euros (EUR), an amount she stated was necessary for the maintenance of her two minor children.

6. According to the Government, on 21 May 2018 the applicant acquired 100% of the shares in the company.

7. On 9 January 2019 the Vilnius Regional Administrative Court set aside the Commission's decision on the ground of procedural violations, namely the failure to properly involve the applicant when examining her request and the failure to conduct a sufficiently personalised evaluation of her circumstances.

8. On 20 March 2019 the Commission, having heard the applicant, recommended that she should not be authorised to engage in secondary employment at the company, citing a potential conflict of interest: the applicant, as an employee of the STI, had access to its databases and thus to a significant amount of confidential information. Although the applicant had expressed a wish to have her access to those databases restricted so that she could take up the relevant post at the company, such restrictions would be incompatible with her functions at the STI. Granting the applicant's wish would mean prioritising private interests over public interests.

9. The Commission's decision was based on Article 18 of the Law on the Civil Service, which provides that civil servants are permitted to engage in secondary employment and to receive a salary for such work unless (i) it gives rise to a conflict of interest in the civil service, (ii) it allows the use of the civil service for private interests, (iii) it undermines the authority of the civil service, (iv) it prevents the civil servant from properly discharging his or her duties as set out in his or her job description, (v) the civil servant conducts audits of, supervises the activities of, or takes decisions with regard to the company where he or she is engaged in secondary employment, or (vi) there are any other relevant circumstances.

10. On 20 March 2019, referring to the Commission's recommendation, the STI rejected the applicant's request to engage in secondary employment at the company.

11. The applicant lodged another complaint with the Vilnius Regional Administrative Court, contesting the reasonableness of the STI's decision.

12. During a hearing in the Vilnius Regional Administrative Court on 20 June 2019, the applicant's lawyer stated that the applicant had been denied additional income, which could raise an issue under Article 1 of Protocol No. 1 to the Convention, noting that that had been the applicant's original claim but that she no longer pursued it. The lawyer nevertheless queried why the applicant, whilst in her post at the STI, was permitted to be involved in the management of the company as a shareholder but not as its director.

13. On 27 June 2019 the Vilnius Regional Administrative Court found the Commission's decision properly reasoned and dismissed the applicant's complaint. The court referred to the applicant's managerial duties at the STI, which involved a high level of responsibility as she had authority over tax-related matters in respect of companies overseen by her STI division. The company at which the applicant sought employment was registered as a value-added taxpayer within the area overseen by her division. Accordingly, her duties were or potentially could become related to the auditing of the company in which she sought employment, and, as a result, her employment in that company would prevent her from fulfilling her duties as a civil servant, thus raising issues with regard to the STI's trust in her. The STI, should it permit the applicant's secondary employment, would create conditions whereby the principles established in the Law on Tax Administration and the Law on the Civil Service could potentially be breached and whereby the civil service could be used for personal gain. Taking into account her duties at the STI, the applicant could undermine the authority of the civil service if she were to take up the post in question, because the STI's activities involved the continuous assessment of taxpayers and required transparency. The company where the applicant sought employment and its business partners could be audited at any time by the tax authorities.

14. Furthermore, although the applicant claimed to have been discriminated against on account of the fact that other STI civil servants had been authorised to engage in secondary employment, the court pointed out that those situations had involved civil servants who had been on maternity leave at the relevant time and had therefore not been performing their duties at the STI.

15. On 15 April 2020 the Supreme Administrative Court dismissed the applicant's appeal. The court emphasised that the applicant was a head of division at the STI's Audit Department. The court referred to the conclusion of a report issued by the Chief Official Ethics Commission (VTEK) on 7 March 2019, which had stated that in the case at hand it appeared (*susidaro regimybė*) that, given the applicant's employment at the STI and the fact that the company's activities were overseen by the STI, there could be a "permanent conflict of interest and a possibility that official powers and non-public information contained in the STI databases might be used for personal activities" should she also be employed at the company. The

first-instance court, having applied the criteria of Article 18 of the Law on the Civil Service to the applicant's concrete situation, had reached the reasonable conclusion that her employment at the company would hinder her from properly performing her job at the STI and from properly managing her STI division.

16. When rejecting the applicant's allegation that the STI had discriminated against her *vis-à-vis* other civil servants who had been authorised to engage in secondary employment, the Supreme Administrative Court noted that each case had to be assessed on the basis of its individual circumstances. The applicant was in a managerial position at the STI's Audit Department and the specific functions of such a post had been taken into account by the lower court, along with the applicant's position within the STI hierarchy in relation to other civil servants. It had been taken into account that the applicant was responsible for the activities of the entire division, whose tasks related to tax audits and investigations. There was no evidence that other civil servants in equivalent posts had been authorised to engage in secondary employment or that authorisation had been granted in the same circumstances as the applicant's. The applicant had not explained how the other situations to which she had referred had been similar to hers.

17. The Supreme Administrative Court lastly held that the applicant's argument that the first-instance court had not assessed the fact that she owned 100% of the shares in the company was not legally significant in relation to the question whether she could be allowed to take up a post there. The fact that she owned all the shares in the company was not a relevant criterion when assessing the criteria listed in Article 18 of the Law on the Civil Service. Accordingly, the court could not agree with the applicant's assertion that being a shareholder in the company and being employed at the company were identical in terms of her legal relationship to it.

18. The applicant complained under Articles 8 and 14 of the Convention that the refusal to allow her to take up the additional job had been disproportionate and discriminatory.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 8 of the Convention

19. As for the applicant's complaint under Article 8 of the Convention, the Court first turns to the Government's argument that, in the circumstances of the present case, Article 8 of the Convention is not applicable on account of the applicant's failure to raise sufficiently at the domestic level the issue of the negative impact on her private life of the refusal to permit her to engage in additional work.

20. The scope of Article 8 in employment-related disputes has been summarised by the Court in *Denisov v. Ukraine* ([GC], no. 76639/11,

§§ 95-117, 25 September 2018). In particular, when a measure affects an individual's professional life, an issue under Article 8 may still arise in so far as the impugned measure has or may have serious negative effects on the individual's private life. It is an intrinsic feature of that consequence-based approach within Article 8 that convincing evidence showing that the threshold of severity was attained has to be submitted by the applicant. Applicants are obliged to identify and explain the concrete repercussions on their private life and the nature and extent of their suffering, and to substantiate such allegations in a proper way. According to the requirement of exhaustion of domestic remedies, such allegations have to be sufficiently raised at the domestic level (ibid., § 114).

21. In her submissions, the applicant acknowledged that the STI's refusal to permit her to engage in secondary employment at the company had not been prompted by her choices in her private life. Rather, the question of privacy was derived from the consequences of the refusal for the applicant's private life, in particular the impact on her ability to earn additional income and to establish and maintain relationships with other persons in the capacity of director of the company.

22. On the facts of the case, the Court notes that the applicant in her initial complaint to the Vilnius Regional Administrative Court referred to the income which she sought to earn as the director of the company (see paragraph 5 above). She also raised that issue in her observations to the Court, holding that EUR 1,000 per month – that is, the salary which she had agreed with the company – was a substantial amount which she would have been able to use in her private life to meet her needs and those of her two minor children. The Court acknowledges that, during the Vilnius Regional Administrative Court's hearing of 20 June 2019, the applicant's lawyer saw the issue of lost additional income as falling under Article 1 of Protocol No. 1 to the Convention, while at the same time mentioning in a somewhat unclear manner that that claim was no longer being pursued by the applicant (see paragraph 12 above), the latter element having been pointed out by the Government. In *Denisov* (cited above, § 122), the Court held that the pecuniary element of the dispute in that case did not automatically bring the issue within the scope of Article 8 of the Convention.

23. Be that as it may, given the reference made by the applicant to her two minor children, in support of whom she claimed to have sought secondary employment, and the non-negligible amount of monthly income at issue, and thus even assuming that the rejection of her request to engage in secondary employment at the company constituted an interference with her right to respect for her private life within the meaning of Article 8 of the Convention, the Court considers the present complaint in any event inadmissible for the reasons below.

24. The above-mentioned interference will be in breach of Article 8 of the Convention unless it can be justified under paragraph 2 of Article 8 as being

"in accordance with the law", pursuing one or more of the legitimate aims listed therein, and being "necessary in a democratic society" in order to achieve the aim or aims concerned.

25. The Court notes that the restriction had a basis in Article 18 of the Law on the Civil Service, read in conjunction with the Law on Tax Administration (see paragraphs 9, 13, 15 and 17 above). The Court therefore finds that the interference was prescribed by law within the meaning of Article 8 § 2 of the Convention.

26. As noted by the Commission and the domestic courts, the restriction sought to guarantee the proper and transparent functioning of the STI (see paragraphs 8, 9, 13 and 15 above), and the Court thus accepts that the interference served the aim of protecting the rights of others (see, *mutatis mutandis*, *Lekavičienė v. Lithuania*, no. 48427/09, § 50, 27 June 2017).

27. It remains to be examined whether the interference exceeded what was "necessary in a democratic society".

28. The Court observes that, in their refusal to set aside the Commission's rejection of the applicant's request to work at the company, the courts referred to her specific duties at the STI (see paragraphs 13 and 15 above): the applicant was head of a division in the Audit Department and the company in which she sought employment had been registered as a taxpayer in the same tax area where she worked. The Court also does not find any grounds to disagree with the Commission's view that, in view of the public interests at stake, notably the applicant's capacity to fully assume her functions at the STI, restricting the applicant's access to the STI's databases in order to prioritise her employment in the private sector would have been unjustified (see paragraph 8 above). That being so, the Court finds that due consideration was given to the applicant's grievance regarding the disproportionality of the restriction, which was dismissed as unfounded.

29. The applicant had further challenged the STI's decision against her by questioning why she had not been allowed to take up employment and thereby earn a salary at the company when she was already its sole shareholder. However, the Court takes note of the domestic courts' finding that being a shareholder in the company and being employed at the company were not identical in terms of the applicant's legal relationship to it (see paragraph 17 above), including the involvement in the company's concrete functioning. The fact that the applicant was not prohibited from being a shareholder in the company in question in any event does not affect its above finding regarding the proportionality of the refusal to authorise her to engage in secondary employment.

30. In those circumstances, the Court considers that the interference with the applicant's right to respect for her private life did not exceed what was "necessary in a democratic society" to pursue the legitimate aim of protecting

the rights of others by ensuring the good and proper functioning of the taxation system.

31. Accordingly, this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Alleged violation of Article 8 read in conjunction with Article 14 of the Convention

32. The applicant further complained under Article 8 read in conjunction with Article 14 of the Convention that the refusal to allow her to take up the additional job had been discriminatory. The Court observes that the domestic courts at two levels of jurisdiction examined the applicant's allegation that she had been treated in a discriminatory manner *vis-à-vis* other STI employees and rejected it as the applicant failed to demonstrate that she was in a comparable situation to other civil servants who were authorised to take up a secondary activity (see paragraphs 14 and 16 above). The Court equally considers that the applicant failed to demonstrate that there was a difference in treatment of the applicant compared to other civil servants in a comparable situation. It follows that this part of the application is likewise manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 22 January 2026.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President