



## No violation of former Prime Minister of Lithuania's rights in disclosure of secretly recorded telephone conversation

In today's Chamber judgment<sup>1</sup> in the case of [Algirdas Butkevičius v. Lithuania](#) (application no. 70489/17) the European Court of Human Rights held, unanimously, that there had been:

**no violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.**

The case concerned a telephone conversation between Mr Butkevičius and a mayor that was secretly recorded during a pre-trial investigation into possible corruption in connection with territorial planning and was made public at a hearing of the *Seimas's* (the Lithuanian Parliament's) Anti-Corruption Commission. At the time, Mr Butkevičius was the Prime Minister of Lithuania.

The Court found that, even if Mr Butkevičius's reputation had been affected by the disclosure of his telephone conversation, there was no evidence that it had been affected to such an extent that it could count as a disproportionate interference with his rights guaranteed by Article 8 of the Convention.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

### Principal facts

The applicant, Algirdas Butkevičius, is a Lithuanian national who was born in 1958 and lives in Vilnius (Lithuania).

In 2015 a regional prosecutor's office and the Special Investigations Service were looking into allegations of corruption relating to the process whereby some State territories were to have their status as resorts – and thus protected territories – revoked by a government resolution. During the pre-trial investigation, a court authorised the recording of the telephone conversations of the mayor of one of the resort towns. One of his intercepted conversations took place in August with Mr Butkevičius, the then Prime Minister of Lithuania, when they briefly discussed the planned adoption of the government resolution; others were with Ministers and other State officials. Government Resolution no. 1025 was adopted on 23 September 2015.

Seven weeks later, the *Seimas*, considering that the correct procedures might not have been followed, instructed its Anti-Corruption Commission to conduct a parliamentary inquiry into the circumstances in which Resolution no. 1025 had been adopted.

In February 2016, the pre-trial investigation into possible political corruption was discontinued on the basis that no crime had been committed. The prosecutor informed the commission and sent it the investigation material, but did not specify that it should not be disclosed further.

On 1 March 2016 the *Seimas* Anti-Corruption Commission held a hearing which was open to the public, during which the commission discussed the pre-trial investigation material. Some 20 journalists were present. That evening an article published by one of them contained extracts

1. 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).

from the transcript of the telephone conversation between Mr Butkevičius and the mayor of the resort town. The article suggested that “nearly half of the Government, including the Prime Minister, were dancing to the music played by the mayor.” That information was republished by the biggest news portals in the country, as well as aired on television channels.

The following day, Mr Butkevičius lodged a complaint with the Prosecutor General, as did the Minister of the Environment later that week. Mr Butkevičius maintained that, under Lithuanian law, there were strict regulations for the use of pre-trial investigation material, and the unlawful disclosure of such material was punishable. Information collected through criminal-intelligence measures had to be destroyed once the investigation was over. He considered that the telephone conversations had been made public for political gain – to harm him as a person, the Social Democrats Party and the Government.

The prosecutor rejected the complaints, relying on the fact that all the persons – the Prime Minister, the Minister of the Environment, and the mayor of the resort town –, had been public figures and that the professional activities of State and municipal officials were always considered to be public in nature. There had been no reason to organise the commission’s hearing as a non-public hearing. Moreover, in sending a copy of the decision to the Anti-Corruption Commission, and in not warning it that the data from the pre-trial investigation file was not to be made public, the prosecutor had not breached the requirements applicable to criminal proceedings and no crime had been committed.

An appeal lodged by Mr Butkevičius was dismissed by the Vilnius City District Court and the Vilnius Regional Court on the ground that, as nothing relating to his private life had been discussed in the conversation, the publication of the transcript could not have infringed his right to respect for his private life. Due to his position as Prime Minister, his work-related activity and his participation in public life, he was a prominent public figure, and the pre-trial investigation and the telephone conversation had concerned a matter of public interest – allegations of corruption in territorial planning. The district courts also found that the members of the *Seimas* Anti-Corruption Commission had neither been warned not to disclose material from the pre-trial investigation file, nor about their possible criminal liability.

## Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), the applicant complained that the State authorities had breached his right to private life and correspondence by disclosing the telephone conversation to the media. He contended that the State authorities – the prosecutor and the Anti-Corruption Commission – had not properly protected that information as they had been required to by law.

The application was lodged with the European Court of Human Rights on 19 September 2017.

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

Jon Fridrik **Kjølbro** (Denmark), *President*,  
Carlo **Ranzoni** (Liechtenstein),  
Branko **Lubarda** (Serbia),  
Gilberto **Felici** (San Marino),  
Saadet **Yüksel** (Turkey),  
Peeter **Roosma** (Estonia),  
Diana **Sârcu** (the Republic of Moldova),

and also Hasan **Bakırcı**, *Section Registrar*.

## Decision of the Court

The Court reiterated that professional life, even in a public context, could sometimes fall within the scope of private life. However, it gave weight to the fact that, when examining Mr Butkevičius's complaint, the domestic court had referred to the Court's case-law on the protection of private life, and had carefully balanced the competing interests, namely his reputation and honour on the one hand, and the right of the press to report on matters of public interest on the other. It also took into account that the prosecutor, considering that the material gathered during the pre-trial investigation had elements demonstrating possible breaches of other laws, had sent a copy of his decision to the Chief Official Ethics Commission.

The Court took note of the Lithuanian authorities' conclusion that in transferring the material to the Anti-Corruption Commission and in not warning it that the material should not be disclosed, the prosecutor had not breached the rules of criminal proceedings. Seeing no reason to depart from that conclusion, the Court rejected Mr Butkevičius's argument that the information gathered during the pre-trial investigation had not been protected by the prosecutor, and it noted the Constitutional Court's practice of considering that the activities of State and municipal officials linked to their functions were always of a public nature.

The Court acknowledged Mr Butkevičius's argument that the release into the public domain of his telephone conversation had had an impact on his reputation. It went without saying that reputation-related criteria played an important role in a politician's life. Be that as it may, he had not pointed to any concrete and tangible repercussions which the media's disclosure of the telephone conversation had had on his private life, all the more so as he had not been convicted of anything and the Chief Official Ethics Commission had established nothing untoward in the conversation.

The Court has already referred to the importance of public scrutiny in cases of possible political corruption. It found that even if Mr Butkevičius's reputation among his colleagues had been dented by the disclosure of his telephone conversation, there were no factual grounds, let alone evidence, to indicate that it had been affected to a disproportionate degree. There had therefore been no violation of Article 8 of the Convention.

*The judgment is available only in English.*

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### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel.: +33 3 90 21 42 08

**We would encourage journalists to send their enquiries via email.**

**Jane Swift (tel.: + 33 3 88 41 29 04)**

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

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