

## **CASE OF GULIJEV v. LITHUANIA - Application no.\_10425/03 (2008)**

In the Chamber's judgment in the case **Gulijev v. Lithuania**, the European Court of Human Rights held, unanimously, that there had been:

**- A violation of Article 8 (right to respect for private and family life) of the Convention;**

### **I. Principal Facts**

The applicant, Ibrahim Gulijev, is an Azerbaijani national who lives in Biedermansdorf (Austria).

In 2001 the applicant married his partner, a Lithuanian national with whom he already had a five-year old daughter, and obtained a temporary residence permit to live in Lithuania. His request for the renewal of his residence permit was rejected by the Migration Department on the basis of a State Security Department's "secret" file stating that he posed a "threat to national security and public order". The applicant appealed to the courts claiming that he had lived in Lithuania since 1989, that he owned property there and had a family and that his wife was expecting another child. The Administrative Court dismissed his appeal relying in particular on the classified State Security Department report and its conclusion that the applicant's continued presence in Lithuania endangered national security and public order. His further appeals were to no avail. In October 2002 the authorities made an attempt to deport the applicant to Azerbaijan and prohibited him from entering Lithuania until 2009. However, he went into hiding before eventually being deported in November 2003.

### **II. Complaints and Procedure**

Relying in particular on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr Gulijev complained about his expulsion from Lithuania to Azerbaijan in November 2003.

### **III. Decision of the Court**

The Court noted that the authorities' refusal to grant the applicant a temporary residence permit and, consequently, his expulsion from Lithuania, had been based solely on a report by the State Security Department, classified as "secret", which alleged that he had been a threat to national security. However, the contents of that report had never been disclosed to the applicant in the administrative proceedings to deport him. Likewise, no objective material had been presented to the Strasbourg Court to demonstrate that the domestic authorities had good reason to suspect the applicant of having been such a threat. In fact, the authorities had already examined the applicant's background in the past and had seen no reason to refuse him a temporary residence permit. Moreover, in view of the fact that the

applicant's wife had strong social and cultural ties with Lithuania and that his daughters had been born in that country and lived there all their lives, the Court could not accept, as suggested by the Government, that the family could have established its residence in Azerbaijan. The applicant's expulsion had therefore amounted to an interference with his right to respect for his family life. Accordingly, the European Court of Human Rights held unanimously that there had been a violation of Article 8 of the Convention.

#### **IV. Just satisfaction**

The Court held that Lithuania was to pay to the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and 700 (EUR) for costs and expenses.