

REPLIES OF THE REPUBLIC OF LITHUANIA TO THE REQUEST FOR URGENT ACTION OF THE COMMITTEE ON ENFORCED DISAPPEARANCES, IN COMPLIANCE WITH ARTICLE 30 OF THE INTERNATIONAL CONVENTION FOR PROTECTION OF ALL PERSONS AGAINST ENFORCED DISAPPEARANCE, REGISTERED UNDER THE REFERENCE NUMBERS UA NO 569/2019 (ADDITIONAL INFORMATION)

The Republic of Lithuania hereby provides additional information related to its replies to the Request for Urgent Action of the Committee on Enforced Disappearances (hereinafter referred to as the “Committee”), in compliance with Article 30 of the International Convention for Protection of All Persons against Enforced Disappearance, with regard to the alleged enforced disappearance of Ms Deimantė Stankūnaitė (Kedytė), on 14 October 2014.

(i) To officially inform the Committee of Deimantė’s location and situation, providing concrete evidence of her health condition, and to take all actions necessary to enable her immediate and periodic contact with any person of her choice. In case the State party’s legislation prohibits the provision of information about her location, the Committee should be informed thereof and undertakes not to disclose this information

As the Committee is aware, the measures aimed at protection against criminal influence are applicable in respect of Ms Deimantė Stankūnaitė (Kedytė) and her mother from 12 October 2009. These measures were imposed by the joint decisions of the Public Prosecutor General of the Republic of Lithuania and the Police Commissioner General of Lithuania delivered on 12 October 2009 (No. VD-33/38SP-7-159KF and No. VD-34/38-SP-7-18), in compliance with the Law on the Protection of Participants in Criminal Proceedings and Criminal Intelligence and Officers of Justice and Law Enforcement Institutions against Criminal Influence (hereinafter referred to as the “Law”).

The Republic of Lithuania would like to emphasise that all information on protected persons with respect to whom measures aimed at protection against criminal influence are applied is classified according to a procedure prescribed by the Lithuanian law. In accordance with Article 7(1) (22) of the Law of the Republic of Lithuania on State and Official Secrets, detailed information about organisation of protection for persons under protection constitutes a state secret the disclosure of which can pose a threat to the individual’s life or health or create conditions for a threat to the individual’s life. Access to classified information is granted only persons to whom permits to work/familiarise themselves with classified information were granted according to a procedure prescribed by the Law on State and Official Secrets, strictly in accordance with the “need to know” principle established in Article 3(6) of the Law on State and Official Secrets. The disclosure of information constituting a state secret of the Republic of Lithuania shall be punishable under the Criminal Code of the Republic of Lithuania (hereinafter referred to as the “CC”) as a crime.

In addition, as noted by the Government in their previous submission of 18 March 2019, the Republic of Lithuania would like to reiterate that the location of Ms Deimantė Stankūnaitė (Kedytė) is known to the Government and she and her mother are under the protection of the law.

It should be pointed out that the quality of communication between Ms Laimutė Stankūnaitė and her daughter is observed and assessed by specialists and social workers responsible for the child rights protection; the girl receives psychological consulting. In addition, interests of Ms Deimantė

Stankūnaitė (Kedytė) are represented by an appointed legal representative - Lawyer Ms **Neringa Grubliauskienė** appointed by the State Guaranteed Legal Aid Service at the request of the court and the Public Prosecutor (see the appended copy of a notice from Lawyer Ms Neringa Grubliauskienė dated 15 June 2020).

(ii) To provide the specific legal grounds that were applied to the case of Deimante (Article 5 of the Law); the measures of protection against the criminal influence taken in this case (Article 7 of the Law); the conditions in which Deimante is participating in criminal proceedings (Article 4 paragraph 1 of the Law); and the status of such proceedings

The above-mentioned joint decision of the Public Prosecutor General and the Police Commissioner General was adopted on assessment of circumstances established in criminal case No 23-1-00834-08 concerning a grave crime provided for in Article 150(4) of the CC (**Sexual Assault**) and a less serious crime provided for in Article 153 of CC (Sexual Abuse of a Person under the Age of Sixteen Years) as well as in criminal case No 20-1-0917-09 investigated by the General Prosecutor's Office concerning a grave crime provided for in Article 129(2)(7) of the CC (Murder in a manner endangering other persons' lives), which circumstances were set out in a letter of the Vilnius County Prosecutor No 14S of 7 October 2009 **classified as "Secret"**.

Article 5(1) of the Law establishes *that measures aimed at protection against criminal influence may be applied* where in case of conducting <...> a pre-trial investigation or hearing of criminal cases concerning *grave or serious crimes as well as less serious crimes* provided for in this paragraph or following *the completion of <...> criminal proceedings* verified data was obtained from public or confidential sources, namely, that: 1) there is a real threat to life or health of persons; 2) property of the persons may be destroyed or damaged.

Thus, by the joint decision of the Public Prosecutor General and the Police Commissioner General (legal basis), measures aimed at protection against criminal influence were granted to Ms **Deimantė Stankūnaitė (Kedytė)** (as a witness in criminal case No 23-1-00834-08) and her mother Ms **Laimutė Stankūnaitė** (as a witness and as a victim in criminal case No 20-1-00917-09) during the pre-trial investigation (criminal proceedings) into graves crimes (Article 129(2)(7) and Article 150(4) of the CC) after receiving information (factual basis) about a real threat to their life and health as well as property.

Criminal proceedings in case No 23-1-00834-08 ended on completion of the trial in the Vilnius Regional Court on an appeal basis on 10 April 2013. Pre-trial investigation in case No 20-1-00917-09 was suspended on 31 March 2017 in accordance with Article 3¹(1) of the Code of Criminal Procedure (hereinafter referred to as the "CCP") (a pre-trial investigation may be suspended by a reasoned decision of the Prosecutor if, during the pre-trial investigation, all requisite procedural actions were taken and all opportunities were exhausted to establish the person that had committed the crime, however, such person has not been established). Notably, on 6 September 2012 from the pre-trial investigation in case No 20-1-00917-09 the pre-trial investigation No 01-2-00085-12 was separated (in which criminal proceedings ended on 25 April 2018 on completion of the trial on a cassation appeal basis at the Supreme Court of Lithuania).

Furthermore, **criminal case No 1-53-491/2020 is pending in the Panevėžys Regional Court, in which Ms Deimantė Stankūnaitė has been recognised as a victim and the civil claimant.**

It should be pointed out that, according to Article 5(1) of the Law, provided that the grounds established in the Law exist, the protection can be continued also on completion of the criminal proceedings. Article 15(5) of the Law states that the procedure and conditions of application of specific measures aimed at protection against criminal influence are set out in the Regulations for the

Protection against Criminal Influence. Paragraph 5 of these Regulations reads that protection against criminal influence can be applied to minors <...> only subject to receipt of a written consent of their parents, guardians, carers or other legal representatives. In the case of Ms Deimantė Stankūnaitė (Kedytė), who is a minor, the protection is applied with a written consent of her mother Ms Laimutė Stankūnaitė. We would like to mention once again that, according to Article 6(3) of the Law, the application of measures aimed at protection against criminal influence is discontinued if the person under protection refuses from the protection measures applied. Please be aware that up until now there has been no refusal from the protection measures applied to Ms Deimantė Stankūnaitė (Kedytė).

(iii) To inform the Committee how, in the adoption of the referred measures of protection and the determination of Deimante's participation in the referred criminal proceedings, the best interests of the child have been a primary consideration and her views have been given due weight in accordance with her age and maturity, in compliance with Article 25, paragraph 5 of the Convention;

Ms Deimantė Stankūnaitė (Kedytė) was questioned, having regard to her age and maturity and in accordance with provisions of the CCP, during pre-trial investigation in criminal case No 23-1-00834-08 as a witness in the presence of a psychologist and a representative of the Child's Rights Protection Service.

Article 186(2) of the CCP establishes that a witness or a victim who is under eighteen years of age is summoned to a full hearing in exceptional cases only. Furthermore, Article 280(2) of the CCP establishes that in the case if a witness who is under eighteen may experience a mental trauma or other serious consequences as a result of questioning in court, such witness is not summoned to a full hearing – his/her testimony given to a pre-trial investigation judge is read in court, or a video and audio recording made during pre-trial investigation is presented.

Ms Deimantė Stankūnaitė (Kedytė) was not questioned during the trial in case No 23-1-00834-08. Ms Deimantė Stankūnaitė (Kedytė) was not questioned during pre-trial investigation in criminal case No. 20-1-00917-09.

Also, mention should be made of criminal case No 65-1-01240-11, in which a pre-trial investigation was conducted concerning criminal acts provided for in the following Articles of the CC p. 3 of Art. 25 (Forms of Complicity), p. 2 of Art. 154 (Libel), p. 1 of Art. 167 (Unlawful Collection of Information about Individual's Private Life), p. 1 of Art. 168 (Unlawful Disclosure or Use of Information about Individual's Private Life), p. 1 of Art. 228 (Abuse of Office), p. 1 of Art. 231 (Hindering the Activities of a Judge, Prosecutor, Pre-trial Investigation Officer, Lawyer or Bailiff) and p. 2 of Art. 313 (Contempt for the Memory of the Deceased). In the pre-trial investigation in these criminal proceedings, Ms Deimantė Stankūnaitė (Kedytė) was questioned, according to a procedure laid down in the CCP, as a witness and has been recognised as a victim. During the trial (in August 2015 – May 2019) in the Šiauliai Regional Court, Ms Deimantė Stankūnaitė (Kedytė) was not questioned. At present the case is pending in the Court of Appeal of Lithuania on the basis of complaints filed by the Prosecutor and the convicted persons (hearings have been scheduled until 10 December 2020).

It should also be noted that the said cases were considered at closed hearings in the best interests of the child, i. e. Ms Deimantė Stankūnaitė (Kedytė).

As regards the Committee's statements that "the information presented by the State party that Deimante and her mother were placed under the protection of the law in October 2009 appears to be contradictory with Deimante's forceful removal from her aunt in May 2012", the Republic of

Lithuania would like to refer to the judgment of the **European Court of Human Rights** (the ‘Court’) of 29 October 2019 in the case of *Stankūnaitė v. Lithuania*¹ (application No. 67068/11, §§ 14, 16 and 17).

In its judgment in the case of *Stankūnaitė v. Lithuania* (cited above, §§ 60-67, 121-126), the Court gave a **positive assessment of the operation of the transfer of Ms Deimantė Stankūnaitė (Kedytė) to her mother when executing the Kėdainiai District Court’s decision of 16 December 2011.** In this regard, the Court observed that the **girl’s aunt N. V. took measures, such as taking the girl out of school in order to keep her at home,** which made the authorities’ task of reuniting the daughter and the mother more difficult. The Court also gave weight to the fact that the State authorities also had to deal with the **crowd surrounding N.V.’s house,** which physically obstructed the girl’s transfer and hindered the execution of the Kėdainiai District Court’s decision of 16 December 2011. Lastly, in this regard the Court emphasised that, having consulted all the necessary authorities – the police, psychologists and childcare specialists, the bailiff prepared the plan for the execution of the decision of the Kėdainiai District Court, which ultimately led to the successful transfer of the girl to her mother. Having regard to the above, the Court held that the domestic authorities, when executing the Kėdainiai District Court’s decision, acted with the requisite diligence and, in particular, took into account the best interests of the child.

In this regard the Court drew attention to the fact that “by a final ruling of 15 December 2009 the Vilnius Regional Court examined an appeal lodged by the applicant [Ms Laimutė Stankūnaitė] and essentially left the District Court’s decision of 8 July 2009 unchanged, with the exception that D.K.’s [the girl’s father’s] sister N.V. had become responsible for taking the girl to the meetings, which were to take place in a secure location designated by the Lithuanian witness protection authorities, and in the presence of a representative from the childcare authorities”. In this context the Court noted that “the reason for that was a change of circumstances – there had been an incident on 5 October 2009 in which two people had been shot, and State protection had been instituted in respect of both the applicant [Ms Laimutė Stankūnaitė] and her daughter”. Further, the Court observed that when upholding the above temporary protective measure in respect of Ms Deimantė Stankūnaitė (Kedytė), the Regional Court highlighted the principle that priority had to be given to the interests of the child. In this light, it should be pointed that the **State protection in respect of Ms Deimantė Stankūnaitė (Kedytė) had already been applied even before she was transferred from her aunt’s place to her mother on 17 May 2012.** Thus, the above circumstance that the measures aimed at protection against criminal influence were applied in respect of Ms Deimantė Stankūnaitė (Kedytė) as from October 2009 does not contradict, in any way, another circumstance, namely, that her transfer from her aunt’s house took place in May 2012.

In this context it should be explained that by a ruling of **23 December 2008 the Kaunas City District Court granted D.K.’s (the girl’s father’s) request for temporary protective measures, prohibiting Ms Laimutė Stankūnaitė (the girl’s mother) from seeing her daughter until the civil case for the temporary restriction of her parental rights is decided.** The court noted that on 30 November 2008 a pre-trial investigation² had been opened concerning the alleged **sexual molestation of the girl (Ms Deimantė Stankūnaitė (Kedytė)),** thus, there was sufficient basis to apply temporary protective measures (see the Court’s judgment in *Stankūnaitė v. Lithuania*, cited above, §§ 9 and 11). At a certain point charges of **sexual assault under Article 150(4) of the CC were brought, *inter alia*, in respect of Ms Laimutė**

¹ See the judgment of the European Court of Human Rights of 29 October 2019 in the case *Stankūnaitė v. Lithuania* (application No. 67068/11) available at: <<http://hudoc.echr.coe.int/eng?i=001-197212>>.

² In this regard it should be noted that the pre-trial investigation was opened on the basis of an application by D.K. (the girl’s father), who alleged that the crime had taken place in the apartment rented by Laimutė Stankūnaitė (the girl’s mother) in Kaunas, and in her presence. It should also be noted that on 17 April 2010 D.K. (the girl’s father) was found dead in rather unclear circumstances (see the Court’s judgment in *Stankūnaitė v. Lithuania*, cited above, § 16).

Stankūnaitė (the girl's mother) (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, § 18). Having regard to the above, by decision of the Director of the Kaunas City Municipality of 5 October 2009, Ms Deimantė Stankūnaitė (Kedytė) was taken into temporary guardianship and on 12 October 2009 her aunt – N.V. (who was D.K.'s sister) was appointed as the temporary guardian of the child who should live with N.V. at her home in the township of Garliava, in Kaunas district (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, §§ 17, 97). It should be pointed out that on 23 December 2009 Ms Laimutė Stankūnaitė applied to the Kėdainiai District Court for a permanent residence order in respect of her daughter. In the spring of 2010 Ms Laimutė Stankūnaitė asked the courts to lift the above-mentioned temporary protective measure, on the grounds that by a decision of 26 January 2010 the criminal charges against Ms Laimutė Stankūnaitė (the girl's mother) were dropped holding that she had not committed the crimes of sexual assault and sexual molestation (Articles 150(4) and 153 of the CC) (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, §§ 22, 30 and 32). Finally, on 16 December 2011, the Kėdainiai District Court held that Ms Laimutė Stankūnaitė could exercise her parental rights unrestrictedly and ruled that the girl should reside with her mother (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, § 38). As stated by the Court in its judgment of 29 October 2019 in this regard, "although it took the State authorities two years – from December 2009 to December 2011 [...] – to reach a court decision that the applicant's daughter should be returned to her, this had been for uncontestedly objective reasons" (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, § 116). Lastly, the Court concluded that there were no "unjustifiable delays in the proceedings which were attributable to the Lithuanian authorities" [and] "they appear to have dealt with the proceedings with the requisite diligence" (see the Court's judgment in *Stankūnaitė v. Lithuania*, cited above, § 116).

(iv) To inform the Committee whether Deimante and her mother have acknowledged this Urgent Action

The Republic of Lithuania informs that legal representative of Ms Deimantė Stankūnaitė (Kedytė) – lawyer Ms Neringa Grubliauskienė has been made conversant with the content of the Committee's Request for Urgent Action. A copy of the Notice of lawyer Ms Neringa Grubliauskienė representing Ms. Deimantė Stankūnaitė (Kedytė) dated 15 June 2020 is enclosed.

In this connection, the attention should be drawn to the fact that on several occasions, i.e., on 16 and 23 April 2020, also on 2 June 2020, Mr Stanislovas Tomas applied to the Ministry of Justice of the Republic of Lithuania asking for permission to meet Ms Deimantė Stankūnaitė (Kedytė) in person. In this regard it should be observed that despite the fact that Mr Stanislovas Tomas claims to be entitled to such right as her legal representative, the Government has doubts whether Mr Stanislovas Tomas is indeed authorized to act as the representative of Ms Deimantė Stankūnaitė (Kedytė) in the absence of any supporting documents with regard to his representative capacity. Thus, the Government is concerned whether Mr Stanislovas Tomas is indeed acting in the best interests of the girl and whether he should be allowed to meet the protected person, namely, Ms Deimantė Stankūnaitė (Kedytė).

ENCLOSED. Copy of a notice from Lawyer Ms Neringa Grubliauskienė dated 15 June, 2020, 4 pages.

**Lawyer Neringa Grubliauskienė
Lawyer Neringa Grubliauskienė's Law Firm**

Donelaičio g. 40-1A, LT-44241 Kaunas, Telephone 8-37 207675, Mobile 8 601 24111, email: grubliauskiene@gmail.com

NOTICE
15 June 2020
Kaunas

To the Lithuanian Criminal Police Bureau

I have been appointed as a legal representative of Deimantė Stankūnaitė, the victim, by the Kaunas Office of the State Guaranteed Legal Aid Service (SGLAS) on 7 November 2019 at the request of the Prosecutor of the Kaunas Regional Prosecutor's Office in the pre-trial investigation in criminal case No 03-2-00521-19, and by the SGLAS Kaunas Office on 5 May 2020 at the request of the Panevėžys Regional Court in the criminal case No 1-63-491/2020 pending at a court of first instance.

Ms Deimantė Stankūnaitė was recognised as victim during the pre-trial investigation, and during the trial at a court of first instance, after Ms Deimantė Stankūnaitė filed a civil lawsuit, the court recognised Ms Deimantė Stankūnaitė as a civil claimant.

In the defence of the infringed rights and legitimate interests of Ms Deimantė Stankūnaitė due to unlawful actions of the accused Ms Neringa Venckienė with respect to Ms Deimantė Stankūnaitė, who was a minor at the time, Ms Deimantė Stankūnaitė had experienced mental suffering and physical pain as Ms Neringa Venckienė acted in a manner that was absolutely contrary to the minor child's interests – she sought to set the child against her mother, degraded the mother's authority in the eyes of the child, slandered the child's mother, lied and manipulated the minor child's emotions and immaturity and, by doing this, inflicted damage on Ms Deimantė Stankūnaitė, as a result of which Ms Deimantė Stankūnaitė filed a civil claim for indemnification for non-pecuniary damage in the amount of EUR 50,000 (fifty thousand euros) against Ms Neringa Venckienė.

The amount of the civil claim has been agreed with the Ms Deimantė Stankūnaitė being represented by me and with her statutory representative, i. e. Ms Laimutė Stankūnaitė.

For the purposes of substantiation of the civil claim, Ms Laimutė Stankūnaitė – the mother of Ms Deimantė Stankūnaitė is intended to be questioned during the trial; I will oppose the questioning of Ms Deimantė Stankūnaitė in court because, despite the passing of 8 years after she was taken from the former guardian Ms Neringa Venckienė, she is still feeling the consequences of her experiences in N. Venckienė's environment.

I am confident that both Ms Laimutė Stankūnaitė – the mother of Ms Deimantė Stankūnaitė and I as Ms Deimantė Stankūnaitė's legal representative in the criminal case will ensure the defence of Ms Deimantė Stankūnaitė's rights and legitimate interests in full.

I have made Ms Deimantė Stankūnaitė and her mother Ms Laimutė Stankūnaitė conversant with the content of the request for urgent actions made by the Committee on Enforced Disappearance.

I guarantee that both the description of Ms Deimantė Stankūnaitė's experiences set out in the civil claim and the circumstances specified in this Notice in relation to Ms Deimantė Stankūnaitė have been obtained from a direct source, i. e. Ms Deimantė Stankūnaitė.

APPENDED. Notices of the SGLAS Kaunas Office dated 07/11/2019 and 05/05/2020 regarding appointment of a representative of the victim D. Stankūnaitė in the criminal case.

Sincerely

Lawyer Neringa Grubliauskienė [*Signed*]

[*Seal*: Lawyer Neringa Grubliauskienė's Law Firm, BAR ASSOCIATION OF THE REPUBLIC OF LITHUANIA]



**STATE GUARANTEED LEGAL AID SERVICE
COORDINATION AND SELECTION DIVISION**

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Mr Justice Valdas Meidus
Panevėžys Regional Court
panevezio.apygardos@teismas.lt

Our Ref. 05/05/2020 No (10.1) KS-7920
Your Ref.: Request of 05/05/2020

Cc: Lawyer Neringa Grubliauskienė
grubliauskiene@gmail.com

RE: SELECTION OF REPRESENTATIVE

We are writing to inform you that Lawyer **Neringa Grubliauskienė**, working at Lawyer Neringa Grubliauskienė's Law Firm, address K. Donelaičio g. 40-1A, LT-44241, Kaunas, mob. tel. No 8 601 24 111, has been selected to represent the victim **Deimantė Stankūnaitė** in criminal case No 1-63-491/2020.

Irmantas Skauranskas, Head of the Coordination and Selection Division



**STATE GUARANTEED LEGAL AID SERVICE
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Darius Jakutis, Prosecutor
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Kaunas Regional Public Prosecutor's Office
darius.jakutis@prokuraturos.lt

Our Ref. 07/11/2019 No (2.21) NTP-11-23768
Your Ref.: Resolution of 06/11/2019

Cc: Lawyer Neringa Grubliauskienė
grubliauskiene@gmail.com

RE: SELECTION OF REPRESENTATIVE

We are writing to inform you that Lawyer **Neringa Grubliauskienė**, working at Lawyer Neringa Grubliauskienė's Law Firm, address K. Donelaičio g. 40-1A, LT-44241, Kaunas, mob. tel. No 8 601 24 111, has been selected to represent the victims **Deimantė Stankūnaitė** and **Laimutė Stankūnaitė** in pre-trial investigation No 03-2-00521-19.

Irmantas Skauranskas, Head of the Coordination and Selection Division