



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

FOURTH SECTION

DECISION

Application no. 40091/13
Edmundas BILINSKAS
against Lithuania

The European Court of Human Rights (Fourth Section), sitting on 4 April 2017 as a Committee composed of:

Vincent A. De Gaetano, *President*,

Egidijus Kūris,

Gabriele Kucsko-Stadlmayer, *judges*,

and Andrea Tamietti, *Deputy Section Registrar*,

Having regard to the above application lodged on 10 June 2013,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Edmundas Bilinskas, is a Lithuanian national who was born in 1967 and lives in Kaunas. He was represented before the Court by Ms D. Mazur, a lawyer practising in Kaunas.

A. The circumstances of the case

2. The facts of the case, as submitted by the parties, may be summarised as follows.

3. The applicant complained of the inadequate conditions of his detention in the Lukiškės Remand Prison from 29 January 2007 until 29 January 2010.

4. The applicant instituted court proceedings. In his written complaint he claimed overcrowding and that the cells in the Lukiškės Remand Prison were cold, that there was mould on the walls and that the cells were infested

with mice and cockroaches. The applicant also alleged that the inadequate conditions of his detention had had a negative impact on his health.

5. On 30 April 2012 the Vilnius Regional Administrative Court acknowledged a breach of the applicant's rights under the domestic law in respect of overcrowding and other insanitary conditions. The court held that the applicant had been held for 142 days in inadequate conditions and awarded him with 2,000 Lithuanian litai (LTL – approximately 579 euros (EUR)) in non-pecuniary damages.

6. The applicant appealed. On 10 December 2012 the Supreme Administrative Court partly allowed the applicant's appeal. It considered that for 42 days the applicant had been held in breach of the domestic requirement for each detainee to have cell space of 5 sq. m and that for a further 100 days he had been held in poor sanitary conditions. As regards the applicant's health, the court held that he had suffered from epilepsy and kidney disease since his childhood and that because of his state of health the applicant had experienced greater discomfort than would otherwise have been the case. The court accordingly increased the amount of non-pecuniary damages to LTL 5,000 (approximately EUR 1,448).

B. Relevant domestic law

7. The relevant provisions of domestic law are resumed in *Mironovas and Others v. Lithuania* (nos. 40828/12, 29292/12, 69598/12, 40163/13, 66281/13, 70048/13 and 70065/13, §§ 50-55, 8 December 2015).

COMPLAINT

8. The applicant complained under Article 3 of the Convention about his conditions of detention.

THE LAW

9. The applicant considered that the conditions on his detention in the Lukiškės Remand Prison had breached Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

10. The Government argued that the applicant could no longer be considered a victim of the alleged violations of Article 3 of the Convention.

His case had been reviewed by the administrative courts, and decisions in the applicant's favour had been adopted.

11. The Court observes that the principles governing the assessment of an applicant's victim status are summarised in paragraphs 178-192 of its judgment in the case of *Scordino v. Italy (no. 1)* ([GC], no. 36813/97, ECHR 2006-V), and paragraphs 84-85 of its judgment in the case of *Mironovas and Others v. Lithuania* (nos. 40828/12, 29292/12, 69598/12, 40163/13, 66281/13, 70048/13 and 70065/13, 8 December 2015).

12. Having examined the domestic courts' decisions, the Court further notes that the Lithuanian administrative courts acknowledged that there had been a violation of the domestic legal principles setting out specific aspects pertinent to the conditions of detention. The Court is satisfied that, at least in more general terms, the Lithuanian courts took into account the principles laid down in the Court's case-law under Article 3 of the Convention, which is an important consideration in order for a domestic remedy in respect of detention to be effective (see *Mironovas and Others*, cited above, § 88). The administrative courts took into account the overall situation of the applicant, and focused on his state of health and his right not to be subjected to inhuman and degrading treatment. The Court is thus satisfied that the subject matter of the case examined by the administrative courts under the relevant domestic legislation correspond to the issues that arise under Article 3 of the Convention.

13. The Court has already ruled that under Lithuanian law, as interpreted and applied by the domestic courts, a claim for damages could in principle secure a remedy in respect of a plaintiff's allegations of poor conditions of past detention, in that it offers a reasonable prospect of success (*ibid.*, § 92). In respect of persons who are no longer incarcerated, the provision of monetary compensation is a form of redress. However, the amount of compensation in respect of non-pecuniary damage that can be obtained must not be unreasonable in comparison with the awards of just satisfaction made by the Court under Article 41 of the Convention in similar cases (*ibid.*, § 93, with further references therein).

14. The Court has also accepted that the celerity of the domestic court proceedings and the living standards in the country in question may constitute relevant criteria when examining whether an award at the domestic level was sufficient (see *Stella and Others v. Italy (dec.)*, nos. 49169/09, 54908/09, 55156/09, 61443/09, 61446/09, 61457/09, 7206/10, 15313/10, 37047/10, 56614/10, 58616/10, §§ 61 and 62, 16 September 2014).

15. Turning to the circumstances of the present case, the Court observes that the applicant was awarded EUR 1,448 in respect of the 142 days of inadequate conditions of detention that he underwent in the Lukiškės Remand Prison, that is to say approximately EUR 10 per day. The Court has regard to the constructive analysis of the applicant's complaints by the

Supreme Administrative Court, which examined them in accordance with the standards set by the Court's case-law under Article 3, and thus is ready to uphold the compensation awarded to the applicant as sufficient.

16. In the light of the above considerations, the Court holds that the applicant may no longer claim to be a victim of a violation of Article 3.

17. Accordingly, the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 4 May 2017.

Andrea Tamietti
Deputy Registrar

Vincent A. De Gaetano
President