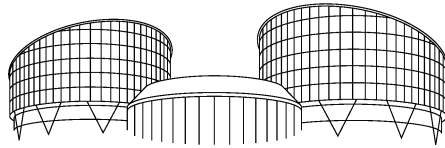

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF STEMPLYS AND DEBESYS v. LITHUANIA

(Applications nos. 71024/13 and 71974/13)

JUDGMENT

STRASBOURG

17 October 2017

This judgment is final in but it may be subject to editorial revision.

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

In the case of Stemplys and Debesys v. Lithuania,

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

Paulo Pinto de Albuquerque, *President,*
Egidijus Kūris,
Iulia Motoc, *judges,*
and Andrea Tamietti, *Deputy Section Registrar,*

Having deliberated in private on 26 September 2017,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in two applications (nos. 71024/13 and 71974/13) 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”) by two Lithuanian nationals, Mr Valdas Stemplys and Mr Henrikas Debesys (“the applicants”), on 4 November 2013 and 7 November 2013 respectively.

2. The Lithuanian Government (“the Government”) were represented by their Agent, Ms K. Bubnytė.

3. On 15 December 2016 the applications were communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The first applicant, Mr Stemplys, was born in 1963 and lives in Marijampolė. The second applicant, Mr Debesys, was born in 1954 and lives in Vilnius.

A. The first applicant (Mr Stemplys)

5. The first applicant was detained in the Pravieniškės Correctional Facility from 6 April 2005 to 28 August 2015.

6. On 19 December 2012 he submitted a civil claim against the State, alleging that he was being detained in overcrowded and unsanitary cells and that his health had deteriorated as a result. He claimed 250,000 Lithuanian litai (LTL – approximately 72,400 euros (EUR)) in respect of non-pecuniary damage.

7. On 26 February 2013 the Kaunas Regional Administrative Court allowed the applicant's claim in part. It firstly held that the time-limit for claiming damages was three years from the damage being caused, and thus dismissed the part of the applicant's claim concerning the period before 19 December 2009 as time-barred. The court then found that from 19 December 2009 to 19 December 2012 (the day when the applicant had submitted his complaint) he had had between 1.98 and 2.74 sq. m of personal space, in breach of the domestic standard of 3.1 sq. m. However, the court found that the sanitary conditions in the cells complied with relevant domestic hygiene norms. It also dismissed as unproven the applicant's claim that his health had deteriorated. The court further underlined that the applicant was detained in a dormitory-type facility, he was able to move around freely during the day, and various leisure and educational activities were available. He was awarded LTL 1,000 (approximately EUR 290) in respect of non-pecuniary damage.

8. On 7 October 2013 the Supreme Administrative Court upheld the first-instance court's judgment in its entirety.

9. On an unspecified date the applicant submitted a new civil claim against the State concerning the conditions of his detention after 19 December 2012, claiming LTL 63,750 (approximately EUR 18,500) in respect of non-pecuniary damage.

10. On 21 October 2013 the Kaunas Regional Administrative Court allowed the applicant's claim in part. It found that from 19 December 2012 to 21 October 2013 (the day the court issued its decision) the applicant had had 1.98 sq. m of personal space, in breach of the domestic standard of 3.1 sq. m, and that during that period for fourteen days he had been placed in solitary confinement as a disciplinary measure, where he had had 3.47 sq. m of personal space, in breach of the domestic standard of 3.6 sq. m. Again, the court found that the sanitary conditions in the cells complied with relevant domestic hygiene norms, and dismissed as unproven the applicant's claims that his health had deteriorated. He was awarded LTL 400 (approximately EUR 116) in respect of non-pecuniary damage.

11. On 25 August 2014 the Supreme Administrative Court upheld the first-instance court's judgment in its entirety.

B. The second applicant (Mr Debesys)

12. The second applicant was detained in the Pravieniškės Correctional Facility from 19 May 2001 to 20 December 2013.

13. On 28 June 2012 he submitted a civil claim against the State, alleging that he was being detained in overcrowded and unsanitary cells and that his health had deteriorated as a result. He claimed LTL 125,000 (approximately EUR 36,200) in respect of pecuniary and non-pecuniary damage.

14. On 26 February 2013 the Kaunas Regional Administrative Court allowed the applicant's claim in part. It firstly held that the time-limit for claiming damages was three years from the damage being caused, and thus dismissed the part of the applicant's claim concerning the period before 28 June 2009 as time-barred. The court then found that from 28 June 2009 to 28 June 2012 (the day when the applicant had submitted his complaint) he had had around 2.55 sq. m of personal space, in breach of the domestic standard of 3.1 sq. m. However, the court found that the sanitary conditions in the cells complied with relevant domestic hygiene norms. It also held that the deterioration in the applicant's state of health was not related to the conditions of his detention. The court further underlined that the applicant was detained in a dormitory-type facility, he was able to move around freely during the day, and various leisure and educational activities were available. He was awarded LTL 1,000 (approximately EUR 290) in respect of non-pecuniary damage.

15. On 15 October 2013 the Supreme Administrative Court upheld the first-instance court's judgment in its entirety.

16. On 15 May 2013 the applicant submitted a new civil claim against the State concerning the conditions of his detention after 28 June 2012, claiming LTL 33,875 (approximately EUR 9,800) in respect of non-pecuniary damage.

17. On 16 September 2013 the Kaunas Regional Administrative Court allowed the applicant's claim in part. It found that from 28 June 2012 to 15 May 2013 (the day when the applicant had submitted his complaint) the applicant had had between 1.59 and 2.77 sq. m of personal space, in breach of the domestic standard of 3.1 sq. m. Again, the court found that the sanitary conditions in the cells complied with relevant domestic hygiene norms and found no causal link between the deterioration in the applicant's state of health and the conditions of his detention. The applicant was awarded LTL 500 (approximately EUR 145) in respect of non-pecuniary damage.

18. On 18 September 2014 the Supreme Administrative Court upheld the first-instance court's judgment in its entirety.

II. RELEVANT DOMESTIC LAW AND PRACTICE AND RELEVANT INTERNATIONAL MATERIALS

19. For the relevant domestic law and practice and international materials, including reports on the conditions in the Pravieniškės Correctional Facility, see *Mironovas and Others v. Lithuania* (nos. 40828/12 and 6 others, §§ 50-69, 8 December 2015).

THE LAW

I. JOINDER OF THE APPLICATIONS

20. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rules of Court).

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

21. The applicants complained about inadequate conditions of their detention in the Pravieniškės Correctional Facility. They relied on Article 3 of the Convention, which reads:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

22. Although the Government did not raise any preliminary objections, the Court nonetheless considers it necessary to address the question of the applicants' victim status. The Court refers to the general principles stemming from its case-law and to its earlier findings (see *Mironovas and Others v. Lithuania*, nos. 40828/12 and 6 others, §§ 84-88 and 93-94, 8 December 2015). It notes that for both applicants the Lithuanian courts admitted a violation of domestic legal norms setting out specific aspects pertinent to the conditions of detention. It considers that even though the applicants were awarded EUR 406 (in the case of the first applicant – see paragraphs 7 and 10 above) and EUR 435 (in the case of the second applicant – see paragraphs 14 and 17 above), those sums, whilst apparently consistent with Lithuanian case-law, are inconsistent with the amounts that the Court awards in similar cases. The Court thus considers that the applicants retain their victim status under Article 34 of the Convention.

23. The Court further notes that the applications are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

24. The applicants submitted that they had been detained in overcrowded and unsanitary cells and that the compensation awarded to them by the domestic courts was too low.

25. The Government acknowledged that the applicants had been detained in overcrowded cells, in breach of domestic standards. However, they underlined that the domestic courts had not found any breaches of hygiene norms. They also submitted that the applicants had been detained in dormitory-type facilities and had not been confined to their cells during the day. The Government therefore argued that the applicants' relatively small amount of personal space had been compensated by their freedom to move around the correctional facility and the otherwise adequate conditions of their detention.

2. The Court's assessment

26. The relevant general principles concerning overcrowding in detention facilities were most recently summarised in *Muršić v. Croatia* ([GC], no. 7334/13, §§ 136-41, 20 October 2016).

27. The first applicant complained about the conditions of his detention in the Pravieniškės Correctional Facility from 19 December 2009 to 21 October 2013. Domestic courts found that during that entire period he had had between 1.98 and 2.74 sq. m of personal space, except for a period of fourteen days during which he had had 3.47 sq. m of personal space (see paragraphs 7 and 10 above). In view of the information submitted to it, the Court considers, on the one hand, that that period of fourteen days does not raise an issue under Article 3 of the Convention (ibid., § 139). On the other hand, it finds that for the remaining period of three years, nine months and nineteen days the applicant was detained in conditions which fell below the relevant minimum standard of 3 sq. m of personal space and thereby created a strong presumption of a violation of Article 3 (ibid., § 136-37).

28. The second applicant complained about the conditions of his detention in the Pravieniškės Correctional Facility from 28 June 2009 to 15 May 2013. Domestic courts found that during that entire period he had had between 1.59 to 2.77 sq. m of personal space (see paragraphs 14 and 17 above). The Court therefore finds that for three years, ten months and eighteen days the applicant was detained in conditions which fell below the relevant minimum standard of 3 sq. m of personal space and thereby created a strong presumption of a violation of Article 3 (ibid., § 136-37).

29. The Court considers that, in respect of both applicants, the periods during which the amount of personal space available to them fell below 3 sq. m cannot be considered short and occasional (ibid., §§ 138

and 151-53). It therefore rejects the Government's argument that the lack of personal space could have been compensated by the applicants' freedom to move around the correctional facility and the otherwise adequate conditions of their detention (see paragraph 25 above).

30. Having examined all the material submitted to it, the Court concludes that the applicants' conditions of detention in the Pravieniškės Correctional Facility amounted to degrading treatment prohibited by Article 3 of the Convention. There has accordingly been a violation of that provision in respect of both applicants.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

32. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the first applicant 17,100 euros (EUR) and the second applicant EUR 17,400 in respect of non-pecuniary damage.

33. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 3 of the Convention in view of the inadequate conditions of the applicants' detention;

4. *Holds*

   (a) that the respondent State is to pay, within three months, the following amounts, plus any tax that may be chargeable, in respect of non-pecuniary damage:

   (i) EUR 17,100 (seventeen thousand one hundred euros) to the first applicant;

   (ii) EUR 17,400 (seventeen thousand four hundred euros) to the second applicant;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 17 October 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Paulo Pinto de Albuquerque
Deputy Registrar President