

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

SECOND SECTION

CASE OF LANIAUSKAS v. LITHUANIA

(Application no. 6544/20)

JUDGMENT

STRASBOURG

17 May 2022

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Laniauskas v. Lithuania,

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

Pauliine Koskelo, *President,*
Egidijus Kūris,
Gilberto Felici, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to:

the application (no. 6544/20) 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") on 13 January 2020 by a Lithuanian national, Mr Remigijus Laniauskas, who was born in 1972 and is currently detained in Pravieniškės ("the applicant"), and who was represented before the Court by Mr A. Blaževičius, a lawyer practising in Kaunas;

the decision to give notice of the application to the Lithuanian Government ("the Government"), represented by their Agent, Ms K. Bubnytė-Širmenė;

the parties' observations;

Having deliberated in private on 26 April 2022,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaint under Article 3 of the Convention that he was ill-treated by officers during a riot in prison.

2. During the events in question, the applicant was serving a prison sentence in the Kybartai Correctional Facility (hereinafter "the prison").

3. On 21 July 2016, during the evening roll call in the prison yard, more than ninety prisoners, including the applicant, left the yard and went back into the residential premises without the guards' permission. They refused the guards' orders to return to the yard until the head of the prison intervened. The prisoners in question were subsequently identified and given disciplinary penalties.

4. Following the incident, the Prison Department decided to carry out a search of the prison's residential premises. On the evening of 22 July 2016, approximately eighty officers of the Prison Department and the Public Security Service arrived at the prison. While the prisoners were in the yard for the roll call, half of the officers searched the residential premises. When the search was finished, the prisoners were allowed to return to their dormitories. One prisoner was asked to step aside on suspicion that he had drugs on him, and subsequently many of the other prisoners became agitated and started threatening the officers. Around twenty or thirty prisoners forced their way back into the yard and the officers used tear gas against them. The prisoners then entered one of the prison buildings and barricaded themselves

inside, but the officers managed to open the door and used tear gas again. After that, the prisoners went back to their dormitories.

5. According to reports submitted by the officers, when they entered the residential premises, many prisoners were aggressive and verbally threatened them. The officers entered each dormitory room and ordered the prisoners to lie down on the floor and be calm, but the prisoners did not follow their orders, so the officers used tear gas in the dormitories. Afterwards, the prisoners were ordered to go to the yard. While being escorted, some of them were aggressive and physically resisted the officers, and thus the latter used combat wrestling methods and rubber truncheons against those prisoners. In the yard, the prisoners were ordered to lie on the ground until the situation de-escalated.

6. According to the same reports, the officers warned the prisoners several times that if they disobeyed lawful orders, physical force would be used against them. The officers stated that they had used combat wrestling methods and rubber truncheons only against those prisoners who had actively resisted. However, they acknowledged that it was not possible to identify all the prisoners against whom such measures had been used because of the large number of prisoners who had been present during the events. No officers reported having sustained any injuries.

7. Subsequently, the authorities identified fifteen prisoners as the main organisers of and participants in the riot. The applicant was not one of them.

8. The applicant submitted to the domestic authorities that, on the evening of 22 July 2016, he had been in his dormitory room watching television when a masked officer had entered and told him to go outside. The applicant sat up on his bed in order to put on his shoes, but the officer hit him several times on his back, either with his hand or with a truncheon. The officer then dragged him to the corridor and told him to run to the yard. More masked officers were standing against the walls of the corridor, and as the applicant was running, those officers kicked him and hit him with truncheons. Later, when the prisoners were allowed to leave the yard, the applicant went back to his dormitory, but soon afterwards, two masked officers entered and told him to go back to the yard. Again, as he was running through the corridor lined with officers, he received multiple blows from truncheons, hands and legs on various parts of his body.

9. The applicant was examined by a doctor on 23 and 25 July 2016, who found haematomas on both of his arms, his back, his buttocks, and his left leg, as well as redness on his bottom lip. A subsequent medical examination established that the applicant had sustained a total of eight blows which could have been inflicted with hard, blunt objects, although “it could not be ruled out that they had been self-inflicted”. The injuries were classified as negligible.

10. After the events of 22 July 2016, the prison doctor examined 149 prisoners and found that eighty-three of them had haematomas on various

parts of their bodies, which looked as though they could have been caused by blows with hard blunt objects and which were classified as negligible injuries.

11. Following complaints lodged by the applicant and other prisoners, in August 2016 a pre-trial investigation was opened into allegations of abuse of office by the officers who had taken part in the above-mentioned events. The applicant was granted victim status. In April 2017 the Marijampolė district prosecutor's office discontinued the investigation, and that decision was subsequently upheld by the senior prosecutor and the courts on the grounds that the officers had acted in accordance with the law and had not overstepped their remit. In particular, in the final decision taken in July 2017, the Kaunas Regional Court held that the relevant legal instruments authorised officers of the Prison Department and the Public Security Service to use special measures, such as combat wrestling methods and rubber truncheons, in order to defend themselves or others from danger to life or limb, or in the event of a riot or deliberate mass disturbance in prison. The court held that, therefore, the physical force which the officers had used on 22 July 2016 had not constituted abuse of office but had been justified by the violent actions of prisoners.

12. In October 2018 the applicant brought a civil claim against the State. He claimed compensation of 100,000 euros (EUR) in respect of the non-pecuniary damage resulting from the injuries sustained at the hands of the officers. In April 2019 the Regional Administrative Court dismissed his claim, and in October 2019 the Supreme Administrative Court upheld that decision. Referring to the findings made in the criminal proceedings (see paragraph 11 above), the courts held that the officers had acted in accordance with the law. Therefore, even though the applicant had sustained negligible injuries, in the absence of any unlawful actions by the officers, the civil liability of the State could not arise.

13. The applicant complained under Article 3 of the Convention that he had been beaten by the officers in prison despite the fact that he had not resisted them and had not participated in the riot.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

14. The Court notes that the applicant did not complain that the investigation into his allegations of ill-treatment had been ineffective. Accordingly, the case concerns solely the substantive limb of Article 3 of the Convention.

15. This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

16. The general principles concerning ill-treatment at the hands of law-enforcement officers have been summarised in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90, ECHR 2015, and the cases cited therein).

17. In particular, the Court is mindful of the potential for violence that exists in penal institutions and of the fact that disobedience by detainees may quickly cause a situation to degenerate. The Court accepts that the use of force may be necessary on occasion to ensure prison security, and to maintain order or prevent crime in detention facilities. Nevertheless, such force may be used only if indispensable and must not be excessive. Recourse to physical force which has not been made strictly necessary by the detainee's own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention (see *Tali v. Estonia*, no. 66393/10, § 59, 13 February 2014, and the cases cited therein).

18. According to the medical documents in the Court's possession, injuries were detected on several parts of the applicant's body a few days after the events of 22 July 2016 (see paragraph 9 above). The Government submitted that it had not been proved that those injuries had been caused by the officers and argued that they could have been self-inflicted, but the Court finds this argument unpersuasive. During the domestic proceedings, it was acknowledged that physical force had been used against prisoners on 22 July 2016 (see paragraphs 11 and 12 above), and injuries similar to those sustained by the applicant had been detected on eighty-two other prisoners following the events in question (see paragraph 10 above). In such circumstances, the Court considers it established that the applicant's injuries were sustained at the hands of the officers on 22 July 2016.

19. The Court further observes that during the domestic proceedings and in the applicant's submissions to the Court, he consistently argued that he had not participated in the prison riot and had not resisted the officers. Indeed, he was not listed among the main organisers of and participants in the riot identified by the authorities (see paragraph 7 above). Nor was it asserted at any stage of the domestic proceedings that the use of force against the applicant had been made strictly necessary by his own conduct. The courts, in both criminal and civil proceedings, limited their assessment to whether the law entitled officers to use physical force in the event of prison riots, without any assessment of the necessity and proportionality of its use in the applicant's case (see paragraphs 11 and 12 above).

20. In such circumstances, the Court is unable to find that the recourse to physical force against the applicant was made strictly necessary by his own conduct. Accordingly, despite the minor severity of the injuries which the applicant sustained, such use of force amounted to inhuman and degrading treatment (see *Artyomov v. Russia*, no. 14146/02, §§ 169-72, 27 May 2010; *Gladović v. Croatia*, no. 28847/08, §§ 38, 54 and 55, 10 May 2011; and *Balajevs v. Latvia*, no. 8347/07, § 95, 28 April 2016).

21. There has accordingly been a violation of Article 3 of the Convention under its substantive limb.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses incurred before the Court.

23. The Government argued that the applicant's claim in respect of non-pecuniary damage was excessive and that his claim in respect of costs and expenses was not properly substantiated.

24. The Court considers it appropriate to award the applicant EUR 8,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

25. As to the costs and expenses, regard being had to the documents in its possession, its case-law and the repetitive nature of the legal issues examined in this case, the Court considers it reasonable to award the applicant EUR 1,000 under this head, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention under its substantive limb;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 May 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı Deputy Registrar	Pauliine Koskelo President