

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

SECOND SECTION

CASE OF LUKOŠIN v. LITHUANIA

(Application no. 25059/20)

JUDGMENT

STRASBOURG

18 January 2022

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



In the case of Lukošin v. Lithuania,

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

Carlo Ranzoni, *President,*
Egidijus Kūris,
Pauliine Koskelo, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to:

the application (no. 25059/20) 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 9 June 2020 by a Lithuanian national, Mr Andrej Lukošin, born in 1973 and detained in Pravieniškės ("the applicant");

the decision to give notice of the complaint concerning conditions of detention to the Lithuanian Government ("the Government"), represented by their Agent, Ms K. Bubnytė-Širmenė, and to declare inadmissible the remainder of the application;

the Government's observations;

Having deliberated in private on 14 December 2021,

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

SUBJECT-MATTER OF THE CASE

1. The application concerns alleged inadequate conditions of the applicant's detention.

2. The applicant was detained at Pravieniškės Correctional Facility. The present application concerns the periods of his detention from 18 June to 18 August 2018 (hereinafter "the first period of detention") and from 5 September to 3 October 2018 (hereinafter "the second period of detention").

3. As for the first period of detention, the applicant complained to the administrative courts that he had been kept in overcrowded dormitory-type rooms. The courts found that for forty-seven days he had had 2.97 square metres of personal space, in breach of the relevant domestic regulations.

4. As for the second period of detention, the applicant complained that he had been kept in disciplinary cells which had been dilapidated and not properly lit. The administrative courts upheld those complaints and found that the relevant domestic regulations had been breached during that entire period (twenty-nine days).

5. In both sets of proceedings, the courts considered that the acknowledgment of a violation constituted sufficient just satisfaction in respect of any non-pecuniary damage sustained by the applicant and did not award monetary compensation.

6. The applicant complained under Article 3 of the Convention that he had been detained in inadequate conditions and that he had not been awarded any compensation.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

7. Although the Government did not explicitly raise an objection regarding the applicant's victim status, they submitted that an acknowledgment of a violation by the domestic courts should be considered as adequate redress in the circumstances of the case. However, the Court has consistently held that anyone who has been detained in inhuman or degrading conditions must be able to claim compensation (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 228, 10 January 2012; *Neshkov and Others v. Bulgaria*, nos. 36925/10 and 5 others, § 190, 27 January 2015; and *Mironovas and Others v. Lithuania*, nos. 40828/12 and 6 others, §§ 93-94, 8 December 2015). In view of the fact that the applicant was not awarded any compensation, it finds no grounds to doubt that he can claim to be a "victim" within the meaning of Article 34 of the Convention.

8. The Court further notes that 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.

9. The general principles concerning conditions of detention have been summarised in *Muršić v. Croatia* ([GC], no. 7334/13, §§ 136-41, 20 October 2016, and the cases cited therein).

10. The Government submitted that the conditions of the applicant's detention had not attained the threshold of severity under Article 3 of the Convention. As to the first period of detention, they submitted that that period had been short and that the lack of personal space had been compensated for by adequate material conditions and the ability to freely move around the facility during the day. As to the second period of detention, they contended that that period had been even shorter and that the inconvenience sustained by the applicant should be considered minor.

11. The Court points out that, in accordance with its case-law, periods of detention lasting for forty-seven and twenty-nine days cannot be considered short (ibid., §§ 151-53). As to the first period of detention, where for forty-seven days the applicant had 2.97 square metres of personal space, the Court finds that the lack of personal space raises a strong presumption of a violation of Article 3 of the Convention which has not been rebutted (ibid., §§ 137-38). As to the second period of detention, where the applicant spent twenty-nine days in disciplinary cells which were dilapidated and had insufficient lighting, it finds that those conditions, in particular when coupled with the fact that the applicant remained locked in disciplinary cells for most

of the day, likewise cannot be considered adequate within the meaning of Article 3 of the Convention (ibid., §§ 139-40).

12. There has accordingly been a violation of Article 3 of the Convention in respect of the aforementioned periods of forty-seven and twenty-nine days.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Having regard to the documents in its possession and to its case-law, the Court considers it reasonable to award the applicant 2,800 euros (EUR), plus any tax that may be chargeable to him, in respect of non-pecuniary damage.

14. The Court further 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. *Declares* the application admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 2,800 (two thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (a) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 18 January 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı	Carlo Ranzoni
Deputy Registrar	President