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

FOURTH SECTION

DECISION

Application no. 78123/13
Henrikas DAKTARAS
against Lithuania

The European Court of Human Rights (Fourth Section), sitting on 3 July 2018 as a Committee composed of:

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

Having regard to the above application lodged on 24 November 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 Henrikas Daktaras, is a Lithuanian national, who was born in 1957 and is serving a life sentence in Lukiškės Remand Prison. He was represented before the Court by Mr V. Sirvydis, a lawyer practising in Kaunas.

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

A. The circumstances of the case

3. The applicant has been detained in Lukiškės Remand Prison since 10 October 2009. He was convicted by the first-instance court on 14 June 2013, the conviction was upheld by the appellate court on 30 June 2015 and by the Supreme Court on 16 June 2016.

1. Conditions of the applicant's detention in Lukiškės Remand Prison

4. In the period from 21 August 2010 to 1 October 2014 the applicant spent a total of 1,377 days in Lukiškės Remand Prison. During the remaining time he was transported to other detention facilities in order to attend court hearings. According to the documents in the Court's possession, the conditions of his detention were as follows.

5. From 21 August 2010 to 15 May 2013 the applicant was detained in cell no. 227, except for two periods when he was in cells nos. 215 and 226 (see paragraphs 6 and 7 below); he spent a total of 863 days in cell no. 227. During that entire period the amount of personal space available to him varied between 3.45 and 6.9 sq. m. Cell no. 227 was inspected several times by the Vilnius Public Health Centre. In November 2010 it reported that the cell was equipped with a toilet, a sink and access to cold water, and that the temperature, humidity and the amount of artificial light in the cell complied with the domestic requirements, but that the amount of natural light was too low (0.016% instead of the required 0.5%). In February 2012 it found that the humidity, ventilation and amount of artificial light in the cell complied with the domestic requirements, and that the cell was being regularly disinfected in order to prevent parasites and rodents. However, the temperature in the cell was too low (15.7°C instead of the required 18-22°C); furthermore, although the walls and ceilings of the cell had been painted, the paint was peeling off in places and some parts of the ceiling had become darker. Cell no. 227 was renovated in April 2012. In May 2012 the Vilnius Public Health Centre found that the previously identified shortcomings had been remedied, and the temperature and humidity in the cell complied with the domestic requirements.

After a fresh inspection in February 2013, the Vilnius Public Health Centre found that the temperature in the cell was again too low (13.3°C instead of the required 18-22°C) and the humidity too high (63.5% instead of the required 35-60%). However, in March 2013 it found that those shortcomings had been eliminated and the temperature and humidity in the cell complied with the domestic requirements.

6. From the evening of 30 September to the morning of 10 October 2013 the applicant was detained in cell no. 215, in which he had 6.96 sq. m of personal space.

7. From 19 March to the morning of 30 March 2012 the applicant was detained in cell no. 226 where he had between 3.45 and 6.9 sq. m of personal space at his disposal. In May 2013 the Vilnius Public Health Centre inspected the beds in cell no. 226. It reported that the mattresses, pillows and blankets were being regularly disinfected, and that the bedding was appropriate and clean.

8. From 15 to 28 May 2013 the applicant was detained in cell no. 177. The personal space available to him was 2.65 sq. m for five and a half days (from 15 to 20 May 2013), 3.97 sq. m for half a day (the morning of 21 May 2013) and 2.65 sq. m for seven and a half days (from the evening of 21 May to 28 May 2013). Cell no. 177 was inspected by the Vilnius Public Health Centre in August 2013. It reported that the cell was equipped with a toilet, a sink and access to cold water, and the equipment was clean and in order. The ventilation and humidity in the cell complied with the domestic requirements, no parasites were detected, the cell was clean and there was no smoking in it. However, it also stated that some paint was peeling off the walls, some decorative tiles had fallen off, and parts of the walls were uneven, which made cleaning and disinfection difficult.

9. On the evening of 3 June 2013 the applicant was detained in cell no. 341, where he had personal space amounting to 7.95 sq. m.

10. From 4 to 12 June 2013 the applicant was detained in cell no. 328. The personal space available to him was 3.79 sq. m for half a day (the morning of 4 June 2013), 2.52 sq. m for half a day (the evening of 4 June 2013), 3.79 sq. m for half a day (the morning of 5 June 2013) and 2.52 sq. m for seven and a half days (from the evening of 5 June to 12 June 2013). Cell no. 328 was inspected by the Vilnius Public Health Centre in June 2013. It reported that the temperature, humidity, ventilation and amount of artificial light in the cell complied with the domestic requirements. The cell was inspected again in September 2013, with the same findings.

11. From the evening of 18 June to the morning of 19 June 2013 the applicant was detained in cell no. 124, where he had personal space amounting to 7.31 sq. m.

12. From the evening of 19 June to 26 July 2013 the applicant was detained in cell no. 314. The personal space available to him varied between 3.79 and 7.58 sq. m for six days (from the evening of 19 June to the morning of 25 June 2013) and between 1.90 and 2.53 sq. m for twenty-three and a half days (from the evening of 25 June to 18 July 2013). It was 3.79 sq. m for one day (19 July 2013) and 2.53 sq. m for seven days (from 20 to 26 July 2013). Cell no. 314 was inspected by the Vilnius Public Health Centre in June 2013. It reported that the ventilation and the amount of natural and artificial light in the cell complied with the domestic requirements, and no mould was detected.

13. From 27 July to 9 December 2013 the applicant was detained in cell no. 263. The personal space available to him was 2.61 sq. m for twenty-six days (from 27 July to 21 August 2013), 3.9 sq. m for two days (22 and 23 August 2013), 2.61 sq. m for ten days (from 24 August to 2 September 2013), 3.9 sq. m for one day (3 September 2013), 2.61 sq. m for two days (4 and 5 September 2013), 3.9 sq. m for six days (from 6 to 11 September 2013), 2.61 sq. m for seven days (from 12 to 18 September

2013), 3.9 sq. m for one day (19 September 2013), 2.61 sq. m for three days (from 20 to 22 September 2013), 3.9 sq. m for three days (from 23 to 25 September 2013), 2.61 sq. m for seven days (from 26 September to 2 October 2013), 3.9 sq. m for one day (3 October 2013), 2.61 sq. m for three days (from 4 to 6 October 2013), between 3.9 and 7.83 sq. m for four days (from 7 to 10 October 2013), 2.61 sq. m for six days (from 11 to 16 October 2013), 7.83 sq. m for one day (17 October 2013), 2.61 sq. m for thirteen days (from 18 to 30 October 2013), 3.9 sq. m for seven days (from 31 October to 6 November 2013), 2.61 sq. m for seven days (from 7 to 13 November 2013), 3.9 sq. m for two days (14 and 15 November 2013), 2.61 sq. m for three days (from 16 to 18 November 2013), 3.9 sq. m for eleven days (from 19 to 29 November 2013) and 2.61 sq. m for ten days (from 30 November to 9 December 2013).

14. From 10 December 2013 to 15 January 2014 the applicant was detained in cell no. 323. The personal space available to him was 2.58 sq. m for one day (10 December 2013) and 7.75 sq. m for thirty-six days (from 11 December 2013 to 15 January 2014).

15. From 16 to 29 January 2014 the applicant was detained in cell no. 14 where he had 7.14 sq. m of personal space at his disposal.

16. From 30 January to 15 September 2014 the applicant was detained in cell no. 323. The personal space available to him varied between 3.9 and 7.75 sq. m for eighteen days (from 30 January to 17 February 2014), was 2.58 sq. m for twenty-eight days (from 18 February to 17 March 2014), varied between 3.9 and 7.75 sq. m for thirty-eight days (from 18 March to 24 April 2014), was 2.58 sq. m for five days (from 25 to 29 April 2014), 3.9 sq. m for one day (30 April 2014), 2.58 sq. m for nineteen days (from 1 to 19 May 2014), varied between 3.9 and 7.75 sq. m for fourteen days (from 20 May to 2 June 2014), was 2.58 sq. m for two days (3 and 4 June 2014), 3.9 sq. m for one day (5 June 2014), 2.58 sq. m for four days (from 6 to 9 June 2014), 3.9 sq. m for three days (from 10 to 12 June 2014), 2.58 sq. m for six days (from 13 to 18 June 2014), varied between 3.9 and 7.75 sq. m for thirteen days (from 19 June to 1 July 2014), was 2.58 sq. m for thirteen days (from 2 to 14 July 2014), varied between 3.9 and 7.75 sq. m for thirty-nine days (from 15 July to 22 August 2014), was 2.58 sq. m for twelve days (from 23 August to 3 September 2014) and varied between 3.9 and 7.75 sq. m for twelve days (from 4 to 15 September 2014).

17. From 16 September to 1 October 2014 the applicant was detained in cell no. 262. The personal space available to him was 2.62 sq. m for one day (on 16 September 2014) and 3.93 sq. m for fifteen days (from 17 September to 1 October 2014).

2. Proceedings for damages

(a) Period of detention from 21 August 2010 to 7 August 2013

18. In August 2013 the applicant lodged a claim for damages in respect of the conditions of his detention.

19. On 19 May 2015 the Vilnius Regional Administrative Court partly allowed the applicant's claim. It firstly held that the time-limit for claiming damages was three years after the damage arose, and thus dismissed that part of the claim concerning the period of detention before 21 August 2010 as time-barred. The court therefore considered the period from 21 August 2010 to 7 August 2013 and found that, during that period, for a total of sixty-six days the applicant's personal space had varied between 1.90 and 2.65 sq. m, below the domestic minimum standard of 3.6 sq. m. It also held that for another 656 days, although the applicant had had around 3.45 sq. m of personal space, the fact that part of the cell had been occupied by furniture ought to be taken into account.

20. The court then referred to the findings of the Vilnius Public Health Centre regarding cell no. 227 (see paragraph 5 above) and on that basis concluded that the conditions of the applicant's detention had not complied with the requirements of domestic law. However, it considered that in all other aspects the conditions of the applicant's detention had been adequate - there had been access to cold water in the cells, the toilets were separated from the rest of the cell by a 1.5 m partition wall, the applicant had had access to a hot shower once a week, the cells were regularly disinfected in order to deter parasites and rodents, and the applicant had been able to take outdoor exercise for one hour a day in courtyards which were sufficiently spacious.

21. The applicant was awarded 2,000 euros (EUR) in respect of non-pecuniary damage.

22. On 7 September 2015 the Supreme Administrative Court upheld the lower court's decision in its entirety. It observed that there was no evidence that the conditions of detention had caused any deterioration in the applicant's health.

(b) Period of detention from 8 August 2013 to 1 October 2014 and lack of long-term conjugal visits

23. In October 2014 the applicant lodged a further claim for damages concerning the conditions of detention. He also complained that during the entire period of his detention, that is to say since 2009, he had not been granted any long-term conjugal visits from his wife.

24. On 4 May 2015 the Vilnius Region Administrative Court partly allowed the applicant's claim. It observed that the applicant's detention from 21 August 2010 to 7 August 2013 was, at that time, being examined in other court proceedings (see paragraphs 18-22 above); accordingly, the

court considered only the period from 8 August 2013 to 1 October 2014. It found that, during that period, the personal space available to the applicant had fallen below the domestic standard of 3.6 sq. m for 248 days.

25. The court referred to the conclusions of the Vilnius Public Health Centre regarding the applicant's cells during the relevant period (see paragraphs 13-17 above) and concluded that the conditions in those cells complied with the domestic requirements. It also stated that the cells had a suitable system of ventilation which prevented mould, that the temperature and humidity in the cells complied with the domestic requirements, that they were being regularly disinfected in order to deter parasites and rodents, that the applicant had access to a hot shower once a week, and that he was provided with toilet paper in line with the domestic requirements. The toilets were all screened from the rest of the cell by a 1.5 m partition wall, and the applicant had had the right to take exercise outdoors for one hour a day in courtyards which were sufficiently spacious. However, even though the Vilnius Public Health Centre had not found any shortcomings with regard to the amount of artificial light in the applicant's cells, the court noted that the applicant's eyesight was deteriorating and on that basis ruled that the cells did not have sufficient artificial light.

26. As for long-term conjugal visits, the court observed that during the period in question the applicant and his wife had both asked the prison administration for such visits but their requests had been denied. Relying on the Strasbourg Court's judgment in *Varnas v. Lithuania* (no. 42615/06, 9 July 2013), the domestic court held that the applicant's right to respect for his private and family life had been breached.

27. The applicant was awarded EUR 1,000 in respect of non-pecuniary damage.

28. On 19 April 2016 the Supreme Administrative Court partly amended the lower court's decision. It found no evidence that the amount of artificial light in the applicant's cell had not complied with the domestic standard and that the deterioration of the applicant's eyesight had been caused by the conditions of his detention; it therefore quashed that part of the decision. However, it upheld the remaining findings of the lower court regarding the personal space available to the applicant and the lack of long-term conjugal visits. The Supreme Administrative Court also considered the amount of damages awarded to the applicant to have been too low and increased it to EUR 2,000.

B. Relevant domestic law and practice

29. For relevant domestic law and practice concerning conditions of detention, see §§ 50-60 of *Mironovas and Others v. Lithuania* (nos. 40828/12 and 6 others, 8 December 2015).

C. Relevant international materials

30. For relevant international materials concerning conditions of detention, as well as reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("the CPT") on its visits to Lukiškės Remand Prison in 2008 and 2012, see §§ 61-69, ibid.

31. During its latest visit to Lithuania from 5 to 15 September 2016, the CPT again visited Lukiškės Remand Prison. The relevant pars of its report, published on 1 February 2018, read:

> "As regards regimes, the Committee once again calls upon the Lithuanian authorities to take decisive steps to develop programmes of activities for both sentenced and remand prisoners. The current situation where more than half of sentenced prisoners have no meaningful activities certainly does not contribute to their social rehabilitation ...
>
> ...
>
> Turning to the regime in remand prisons, it remained impoverished even though remand prisoners were now allowed to attend secondary education. This notwithstanding, remand prisoners continued to be locked up in their cells for up to 22-23 hours per day.
>
> 58. The Committee wishes to reiterate that ensuring that sentenced prisoners are engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) is not only an essential part of rehabilitation and re-socialisation, but it also contributes to the establishment of a more secure environment within prisons. Moreover, remand prisoners should also, as far as possible, be offered work and other structured activities.
>
> The CPT once again calls upon the Lithuanian authorities to take decisive steps to develop programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, etc.) tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, inmates serving life sentences, female prisoners, etc.).
>
> 59. At Lukiškės Prison, the delegation was informed of plans to adapt parts of the adjoining premises of the former Prison Hospital for organised activities such as work, schooling and sports. The Committee would like to be informed whether these plans have now been implemented and if so, how many remand prisoners participate in the aforementioned activities."

COMPLAINTS

32. The applicant complained that he had been detained in inhuman and degrading conditions, contrary to Article 3 of the Convention. He also complained under Article 13 of the Convention about the lack of an

effective domestic remedy for his complaint about the conditions of his detention.

33. The applicant further complained that he had not been entitled to conjugal visits while being detained on remand from 10 October 2009 to 14 June 2013. He invoked Article 8 of the Convention alone and taken together with Article 14.

THE LAW

A. Scope of the case

34. The Court notes that in his reply to the Government's observations the applicant raised a series of complaints which had not been communicated to the Government – he complained about the fairness of the criminal proceedings against him, the conditions of his transportation between different correctional facilities, the sentence of life imprisonment given to him, and the lack of conjugal visits for convicts serving life sentences. The Court considers that these complaints do not fall within the scope of the present application and therefore there is no need for the Court to examine them (see, *mutatis mutandis*, *N. v. Romania*, no. 59152/08, § 110, 28 November 2017, and the cases cited therein).

B. Complaint under Article 3 of the Convention

35. The applicant complained about the inadequacy of the conditions of his detention in Lukiškės Remand Prison. He invoked Article 3 of the Convention, which reads as follows:

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

1. The parties' submissions

(a) The applicant

36. The applicant submitted that he had been detained in overcrowded and dilapidated cells which had been cold and humid, had had insufficient light and had been infested with parasites and rodents. He submitted that the toilets had not been properly separated from the rest of the cell and the amount of toilet paper given to him had been insufficient. He also complained about not being given enough time to shower, to spend time outside the cell or to use a computer. He submitted that the compensation given to him by the domestic courts was much lower than awards made by the Court in cases concerning conditions of detention.

(b) The Government

37. The Government firstly submitted that the applicant could no longer claim to be a victim of an alleged violation of Article 3 of the Convention because the domestic courts had thoroughly examined his complaints, acknowledged that there had been a violation of his rights and awarded him monetary compensation that was consistent with the Court's practice in similar cases – EUR 4,000 in the two sets of proceedings, comprising compensation for inadequate conditions of detention and lack of long-term conjugal visits (see paragraphs 21 and 28 above).

38. The Government further submitted that for the most part of his detention the applicant's personal space had exceeded 3 sq. m and that any reductions in the required minimum had been short, occasional and minor. They also submitted that the material conditions in the cells in which the applicant had been detained had been adequate. Most of the cells had been renovated; they had all been clean and had been disinfected regularly. The applicant had had his own bed with appropriate bedding, he had received three meals a day, and had had access to sanitary facilities. He had been provided with the necessary medical, psychological and social assistance. The Government submitted that the applicant's numerous complaints about the conditions of detention had been dismissed as unfounded by domestic courts (see paragraphs 18-28 above), which had relied on the conclusions of the Vilnius Public Health Centre.

39. The Government also provided to the Court the daily schedule of remand detainees and convicted prisoners in Lukiškės Remand Prison. The schedule set the time for getting up, cleaning, taking meals and going to bed; it also scheduled one hour's outdoor exercise, social rehabilitation measures, psychological therapy and free time. The Government submitted that the applicant had not been locked in his cell for twenty-three hours a day – in addition to the daily outdoor exercise, there had been cultural and sports activities organised by the prison administration, film viewings and discussions, and group psychological therapy. Furthermore, the applicant had been going to the prison gym once a week and had had the possibility to visit the prison library upon request. In addition to those activities, the applicant had often gone to see various doctors, specialists and a priest, and he had received regular short-term visits from his family and from lawyers, thereby spending a lot of time outside of his cell. The Government submitted that the applicant himself had never complained about a lack of out-of-cell activities at his disposal.

2. The Court's assessment

40. Before addressing the Government's submission concerning the applicant's victim status, the Court will firstly examine whether the

conditions of the applicant's detention were in line with the requirements of Article 3 of the Convention.

41. The relevant general principles concerning conditions of detention are summarised in *Muršić v. Croatia* ([GC], no. 7334/13, §§ 136-41, ECHR 2016).

(a) As to the applicant's detention in cell no. 227

42. Between 21 August 2010 and 15 May 2013 the applicant spent 863 days in cell no. 227, where he had at his disposal between 3.45 and 6.9 sq. m of personal space (see paragraph 5 above). In the Court's view, the personal space at his disposal during that period did not in itself raise an issue under Article 3 of the Convention; however, it remains to be assessed whether the material conditions in detention during that period were appropriate (ibid., §§ 139-40).

43. As for the material conditions in cell no. 227, the domestic courts, relying on the reports drawn up by the Vilnius Public Health Centre, found the following shortcomings (see paragraphs 5, 20 and 22 above):

- In November 2010 it was found that the amount of natural light in the cell was too low (0.016% instead of the required 0.5%);
- In February 2012 it was found that the temperature in the cell was 2.3°C lower than the required minimum, that the paint was peeling off the walls and that the ceiling and some parts of the ceiling had become darker;
- Following renovation of the cell, in May 2012 no shortcomings were detected;
- In February 2013 it was found that the temperature in the cell was 4.7°C below the required minimum and the humidity was 3.5% above the allowed maximum; those shortcomings had been remedied by March 2013.

44. Other material conditions in cell no. 227 were found to be adequate (see paragraphs 20 and 22 above). Having examined the documents submitted to it by the parties, the Court sees no grounds to question the assessment of the domestic courts.

45. In the Court's view, even though during certain periods the conditions of the applicant's detention in cell no. 227 fell short of the domestic requirements, the deviation from those requirements could be considered as minor, and the seriousness and duration of the shortcomings was limited. The Court also reiterates that during the entire period in question the applicant had sufficient personal space and the conditions in his cell complied with basic sanitary and hygiene requirements (see paragraphs 42 and 44 above). In such circumstances, the Court finds that the overall conditions of the applicant's detention in cell no. 227 were not such as to amount to inhuman or degrading treatment prohibited by Article 3 of the Convention. This part of the applicant's complaint is therefore manifestly ill-founded and must be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

(b) As to the applicant's detention in other cells

(i) Whether the applicant has an arguable claim under Article 3

46. During the remainder of his detention, from 15 May 2013 to 1 October 2014, for 492.5 days the applicant was kept in cells nos. 14, 124, 177, 262, 263, 314, 323, 328 and 341 (see paragraphs 8-17 above).

47. During that period, for a total of 253 days the applicant had more than 3 sq. m of personal space at his disposal. Having examined the documents in its possession, the Court is of the view that the conditions of the applicant's detention during that time did not raise an issue under Article 3 of the Convention.

48. For the remaining 239.5 days during the period in question the personal space available to the applicant fell below 3 sq. m. Such occasions comprised twenty-seven non-consecutive periods which lasted between half a day and thirty-three days, and in those periods the applicant had at his disposal between 1.90 and 2.65 sq. m of personal space (see paragraphs 8-17 above). The Court considers that it is not necessary to assess whether any of those periods were short, occasional and minor because, in any event, they were not compensated by other factors (ibid., §§ 137-38). It sees no grounds to question the findings of the domestic courts that the material conditions in the relevant cells were adequate (see paragraphs 6-17, 25 and 28 above). However, it does not escape the Court's attention that the CPT, after visiting Lukiškės Remand Prison in 2008 and 2012, found that nearly all detainees were locked up in their cells for twenty-three hours a day, with no out-of-cell activities other than outdoor exercise of one hour in small and dilapidated yards; its findings following a visit in 2016 were similar (see paragraphs 30 and 31 above). While the Government provided a list of activities in which the applicant could participate (see paragraph 39 above), the Court nonetheless observes that the applicant was not able to freely move around the prison during the day and remained confined to his cell most of the time (compare and contrast *Mironovas and Others v. Lithuania*, nos. 40828/12 and 6 others, §§ 134 and 139, 8 December 2015, and *Muršić*, cited above, §§ 155-63). In such circumstances, even if he had the occasional opportunity to take part in sports or cultural activities indicated by the Government, and also noting the Government's submission that the applicant himself did not complain about inadequate out-of-cell activities (see paragraph 39 above), the Court nonetheless considers that the lack of personal space does not seem to have been compensated by sufficient freedom of movement outside the cell and adequate out-of-cell activities.

49. It follows that for his detention during the 239.5 days when he had less than 3 sq. m of personal space at his disposal, the applicant has an arguable claim under Article 3 of the Convention.

(ii) Whether the applicant may still claim to be a victim of a violation of Article 3

50. The relevant general principles governing the assessment of an applicant's victim status in cases concerning conditions of detention are summarised in *Mironovas and Others* (cited above, §§ 84-85).

51. The Court has found that during a total period of 239.5 days the applicant was detained in conditions which could raise an issue Article 3 of the Convention (see paragraph 49 above). It has also found that during other periods the conditions of his detention were in line with Article 3 (see paragraphs 45 and 47 above). In view of the fact that the conditions of the applicant's detention varied over time, even though he remained in the same correctional facility, the Court is unable to conclude that at the time when he lodged his application he was still detained in unsuitable conditions. Nor did he provide any information allowing the Court to reach a different conclusion. In such circumstances, it considers that monetary compensation could have constituted an effective remedy for the applicant's complaints (ibid., § 85).

52. In the domestic proceedings the applicant was awarded a total of EUR 4,000 for inadequate conditions of detention and lack of conjugal visits (see paragraphs 21 and 28 above). In view of the duration of the violation of his rights (see paragraphs 49 and 51 above), the Court finds that compensation to be sufficient (see, *mutatis mutandis*, *Mironovas and Others*, cited above §§ 95-98, where the Court considered EUR 2,300 as sufficient compensation for 361 days of detention in unsuitable conditions). Accordingly, the applicant may no longer claim to be a victim of a violation of Article 3 of the Convention.

53. It follows that this part of the applicant's complaint under Article 3 is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention and must therefore be rejected pursuant to Article 35 § 4.

C. Complaint under Article 13 of the Convention

54. The applicant complained about the lack of an effective domestic remedy for his complaint about the conditions of his detention. He relied on Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

55. The Government submitted the same arguments with regard to the complaint under Article 13 of the Convention as they did with regard to the applicants' victim status (see paragraph 37 above).

56. Having regard of its findings concerning the applicant's complaint under Article 3 of the Convention (see paragraphs 45 and 52 above), the Court considers that this complaint is manifestly ill-founded and must be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention (see *Butkus and Remeikis v. Lithuania* (dec.) [Committee], nos. 42468/16 and 51911/16, § 29, 10 April 2018).

D. Complaint under Article 8 of the Convention taken alone and in conjunction with Article 14

57. The applicant further complained about the lack of long-term conjugal visits during his detention on remand. He relied on Article 8 of the Convention taken alone and in conjunction with Article 14. These provisions read as follows:

Article 8

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 14

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

58. The Government submitted that the applicant could not be considered a victim of a violation of Articles 8 and 14 because during his detention on remand he had never asked the prison administration for a conjugal visit – the first time when he submitted such a request had been in December 2013, after he had already been convicted by the first-instance court and had lodged his application before the Court. They further argued that, in any event, the applicant had been awarded adequate compensation by domestic courts and had thereby lost his victim status.

59. The Court reiterates that it has not so far interpreted the Convention as requiring Contracting States to make provision for conjugal visits for prisoners. Accordingly, this is an area in which the Contracting States enjoy a wide margin of appreciation in determining the steps to be taken to ensure compliance with the Convention with due regard to the needs and resources of the community and of individuals (see *Varnas v. Lithuania*, no. 42615/06, § 109, 9 July 2013, and *Costel Gaciu v. Romania*, no. 39633/10, § 50, 23 June 2015). However, it has found a violation of Article 8 of the Convention taken together with Article 14 on account of the difference in treatment between remand detainees and convicted prisoners. The Court held that the denial of long-term conjugal visits for remand detainees while such visits were granted for convicted prisoners, had no objective and reasonable justification (see *Varnas*, cited above, § 116-22).

60. Turning to the circumstances of the present case, the Court notes that the applicant was detained on remand from 10 October 2009 until 14 June 2013, when he was convicted by the first-instance court (see paragraph 3 above). The domestic courts which examined the applicant's complaint concerning conjugal visits found that both he and his wife had requested such visits (see paragraph 26 above). However, the Court observes that the domestic courts assessed a period extending beyond the applicant's detention on remand (see paragraph 24 above), whereas only the latter was the subject of his complaint before this Court. The documents in the Court's possession show that during his detention on remand, that is from 10 October 2009 until 14 June 2013, the applicant did not ask for long-term conjugal visits – according to the Government, the first time when he submitted such a request was in December 2013, after he had already been convicted by the first-instance court (see paragraph 58 above). The applicant did not provide the Court with any evidence showing that he had asked for such visits during his detention on remand. The Court therefore considers that the applicant cannot claim to be a victim of the alleged violation of Article 8 of the Convention (see, *mutatis mutandis*, *Kazlauskas v. Lithuania* (dec.), no. 13394/13, § 34, 11 July 2017). It follows that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention and must therefore be rejected pursuant to Article 35 § 4.

61. The Court further notes that the applicant's complaint about the alleged discrimination against him is closely linked to his complaint under Article 8. Consequently, taking into account its above-mentioned findings, the Court considers that the applicant cannot claim to be a victim, within the meaning of the Convention, of a violation of his rights guaranteed by Article 14 (see *Kazlauskas*, decision cited above, § 36). Therefore this part of the application is likewise incompatible *ratione personae* with the provisions of the Convention and must be dismissed pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 26 July 2018.

Andrea Tamietti
Deputy Registrar

Paulo Pinto de Albuquerque
President