



SECOND SECTION

**CASE OF VAIDELYS v. LITHUANIA**

*(Application no. 21237/19)*

JUDGMENT

STRASBOURG

7 September 2021

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



**In the case of Vaidelys v. Lithuania,**

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

Aleš Pejchal, *President*,

Branko Lubarda,

Pauliine Koskelo, *judges*,

and Hasan Bakırcı, *Deputy Section Registrar*,

Having regard to:

the application (no. 21237/19) 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 a Lithuanian national, Mr Nerijus Vaidelys (“the applicant”), on 8 April 2019;

the decision to give notice of the application to the Lithuanian Government (“the Government”);

the parties’ observations;

Having deliberated in private on 6 July 2021,

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

## INTRODUCTION

1. The case concerns the conditions of the applicant’s detention in Pravieniškės Correctional Facility.

## THE FACTS

2. The applicant was born in 1975 and is detained in Alytus.

3. The Government were represented by their Agent, Ms K. Bubnytė-Širmenė.

4. The applicant was detained in Pravieniškės Correctional Facility from 5 February 2014 to 29 July 2016. He lodged a civil claim against the State, complaining about the conditions of his detention. On 24 October 2018 the Supreme Administrative Court found that for a total period of 672 days he had had 2.76 sq. m of personal space, which was in breach of the domestic requirement of 3.1 sq. m. The applicant was awarded 1,400 euros (EUR) in respect of non-pecuniary damage.

## RELEVANT LEGAL FRAMEWORK AND PRACTICE

5. For the relevant domestic law and practice and international materials, see *Mironovas and Others v. Lithuania* (nos. 40828/12 and 6 others, §§ 50-69, 8 December 2015).

## THE LAW

### I. THE GOVERNMENT'S UNILATERAL DECLARATION

6. The Government submitted a unilateral declaration whereby they acknowledged that the conditions of the applicant's detention in Pravieniškės Correctional Facility had not complied with Article 3 of the Convention and proposed to pay him EUR 6,117 by way of just satisfaction. The Government asked the Court to strike the application out of its list of cases pursuant to Article 37 § 1 (c) of the Convention.

7. The applicant rejected the Government's proposal on the grounds that the amount proposed as just satisfaction was insufficient.

8. The Court finds that the amount proposed in the Government's unilateral declaration does not correspond to its own awards in similar cases, and the Government did not provide any valid reasons why the unilateral declaration should nonetheless be accepted (see *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307/95, § 75, ECHR 2003-VI, and *Zherebin v. Russia*, no. 51445/09, § 40, 24 March 2016).

9. Therefore, the Court rejects the Government's request to strike this application out of its list of cases under Article 37 of the Convention.

### II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

10. The applicant complained about the conditions of his detention. He relied on Article 3 of the Convention, which reads as follows:

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

#### **A. Admissibility**

11. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

#### **B. Merits**

12. The applicant submitted that for 672 days he had had insufficient personal space.

13. The Government submitted that the domestic courts had failed to take into account several periods during which the applicant had been placed in isolation cells for failure to comply with prison regulations or when he had received long-stay family visits – they contended that during those periods the personal space available to him had been adequate. Thus,

the total period during which his rights had been violated had been 659 days.

14. The general principles relevant for the assessment of prison overcrowding were summarised in *Muršić v. Croatia* ([GC], no. 7334/13, §§ 136-41, ECHR 2016).

15. The Court considers that the Government have not provided it with any documents which would enable it to question the conclusions reached by the domestic courts (see paragraphs 4 and 13 above). Therefore, having examined the documents in its possession, the Court finds that there has been a violation of Article 3 of the Convention in view of the conditions of the applicant's detention in Pravieniškės Correctional Facility for 672 days between 5 February 2014 and 29 July 2016.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

16. 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.”

17. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the applicant 10,800 euros (EUR) in respect of non-pecuniary damage.

18. 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. *Rejects* the Government's request for the application to be struck out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declaration which they submitted;
2. *Declares* the application admissible;
3. *Holds* that there has been a violation of Article 3 of the Convention;
4. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, EUR 10,800 (ten thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a

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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 7 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı  
Deputy Registrar

Aleš Pejchal  
President