

## **CASE OF ILJINA AND SARULIEN v. LITHUANIA - Application no. 32293/05 (2011)**

In Chamber's judgment in the case of **Iljina and Sarulien v. Lithuania** (2011) the European Court of Human Rights held, unanimously, that there had been:

**- A violation of Article 3 (prohibition of degrading treatment and lack of effective investigation) of the European Convention on Human Rights;**

### **I. Principal Facts**

The applicants, Danuta Iljina, and her daughter, Evelina Sarulien , are two Lithuanian nationals. The case concerned a mother and daughter's allegation that they and their family were the victims of police brutality in the staircase of their block of flats and that the incident was not adequately investigated. According to expert medical reports carried out immediately after the incident, the applicants had sustained light injuries, including scratches and bruising, caused in particular by hard blunt objects.

The applicants' complaint about the incident was considered at three levels: by the Police Internal Affairs Department, the Prosecutor's Office and the Vilnius First District Court. All found against the applicants, that they would not have been hurt if they had not resisted arrest. Notably, between August and November 2004 the Internal Affairs investigator questioned the applicants, their neighbours as well as the policemen involved in the incident. The prosecuting authorities, basing their decision on those statements, decided to discontinue the pre-trial investigation due to lack of evidence. Ultimately in March 2005, the district court, considering that the pre-trial investigation had been thorough and that the prosecution had taken reasoned decisions, also dismissed the complaint. Neither the prosecution nor the district court considered it necessary to carry out any further questioning of the policemen or witnesses.

### **II. Complaints and procedure**

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Ms Iljina and Ms Sarulien complained that they and their family had been subjected to police brutality at their apartment block, and that the authorities had failed to carry out an effective investigation into the incident so as to identify and punish those officers responsible.

### **III. Decision of the Court**

Both parties agreed that the two womens' injuries – corroborated by medical reports – had occurred during the altercation with the police. The Court found that their injuries were consistent with their version of events, notably being pulled by the arms off a police car and having a foot shut in a door. It also considered that those injuries, together with the fact that

the women had witnessed police violence, showed that they had been subjected to degrading treatment.

The Court did not consider, however, that that use of force could be justified by the two women obstructing the police or by members of their family resisting arrest. Indeed, doubt was cast over any necessity to use force by the fact that the charges against the members of the applicants' family had been dropped in December 2004. The Court was particularly concerned by the fact that, those charges having been dismissed, neither the prosecution nor the domestic courts considered it important or reasonable to reopen the pre-trial investigation and carry out further more transparent questioning, without the psychological pressure which witnesses and victims would naturally have felt at the police station. Lastly, at no stage was it ever established clearly to what extent each police officer had contributed to the injuries sustained by the two women or the members of their family.

The Court therefore concluded that Lithuania was responsible for the physical and mental violence to which the two women had been subjected as well as the inadequacy of the ensuing investigation into the incident, in violation of Article 3.

#### **IV. Just satisfaction**

The Court held that Lithuania was to pay to the applicants 9,000 euros (EUR), each, in respect of non-pecuniary damage and 1,050 (EUR), jointly, for costs and expenses.