

## **CASE OF KARALEVI IUS v. LITHUANIA - Application no.\_53254/99 (2005)**

In the Chamber's judgment in the case **Karalevi ius v. Lithuania**, the European Court of Human Rights held, unanimously, that there had been:

- **A violation of Article 3 of the Convention;**
- **A violation of Article 5 § 1 of the Convention as regards the applicant's detention from 13 June to 6 August 1997;**
- **A violation of Article 5 § 1 of the Convention as regards the applicant's detention from 29 June to 30 July 1999**
- **No violation of Article 5 § 1 of the Convention as regards the applicant's detention from 15 November to 30 December 1999;**
- **A violation of Article 8 of the Convention;**

### **I. Principal Facts**

The applicant, Vytautas Karalevi ius, is a Lithuanian national. On 31 December 1996 Šiauliai City District Court ordered his detention on remand. He was convicted of forgery and suppressing documents on 10 September 1998 and sentenced to five years' imprisonment. He appealed. On 24 October 2000 the Supreme Court reduced the sentence to three years' imprisonment.

From 2 January 1997 to 22 September 1999 the applicant had been held at the Šiauliai Remand Prison, where, he alleged, he had lived and slept in cells of less than 20 square metres with 10 to 15 inmates, there had been an open toilet in each cell; the cells had lacked ventilation and been humid and cold; only one hour's outside exercise had been permitted per day; there had been a constant lack of hot and cold water; and the applicant had had access to a shower only once in 15 days.

### **II. Complaints and Procedure**

The applicant complained that the conditions of his detention at the Šiauliai Remand Prison had been contrary to Article 3 (prohibition of inhuman or degrading treatment or punishment). He complained that certain periods of his detention on remand had been incompatible with Article 5 § 1 (right to liberty and security) and that, contrary to Article 8 (right to respect for correspondence), the Šiauliai Remand Prison administration had opened his correspondence with the European Commission and Court of Human Rights.

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

The Court observed that for more than three years and one month the applicant had been held in the Šiauliai Remand Prison which, according to the Lithuanian Government, was 100% overcrowded by relevant domestic standards. The applicant had spent most of that time in space of less than two square metres and for more than a year and a half had lived in an area of 1.51 square metres in a cell of 16.65 square metres together with 10 other inmates. The Court considered it established that the applicant had been confined to his cell for 23 hours daily. In the Court's opinion, the fact of the applicant being obliged to live, sleep and use the toilet in the same cell with so many other inmates had itself been sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.

The Court noted the Government's admission that no toilet paper had been given to the inmates during the whole of the applicant's stay there, that until 1999-2000 the possibility to use the bath had been restricted to less than once a week, and that until 2000 no adequate facilities had existed for laundry of the inmates' belongings and bedding. Although those factors alone did not justify being regarded as degrading treatment, when added to the serious overcrowding problem they showed that the applicant's conditions of detention had not been compatible with Article 3. Consequently, the Court concluded that the applicant's detention amounted to degrading treatment contrary to Article 3 of the Convention.

With regard to the applicant's periods of detention, the Court identified three: from 13 June to 6 August 1997 no order had been made by a judge authorising the applicant's detention under Articles 10 and 104-1 of the Code of Criminal Procedure as then in force. The applicant's detention during that period had therefore been unlawful and the Court concluded that there had been a violation of Article 5 § 1.

With regard to the period of detention from 29 June to 30 July 1999 the Court observed that the applicant's conviction had been quashed by the Supreme Court on 29 June 1999 but no court order authorising the applicant's remand had been made until 30 July 1999. The applicant's detention during that period had therefore not been lawful and the Court concluded that there had been a violation of Article 5 § 1.

The detention from 15 November to 30 December 1999 had been covered by a valid court order. Accordingly, the Court concluded that there had not been a violation of Article 5 § 1 regarding that period.

Lastly, the Court noted that the Government had not denied that all of Mr Karalevius's correspondence with the Convention institutions had been opened by the prison administration. Accordingly, it concluded that there had been a violation of Article 8 of the Convention

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

The Court held that Lithuania was to pay to the applicant 12,000 (EUR) for non-pecuniary damage and 1,000 (EUR) for costs and expenses.