

The Second Section of the European Court of Human Rights (ECHR), with a judgement of January 18th 2022, ruled against Lithuania for a violation of art. 3 of the European Convention on Human Rights which states: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».

The case concerned the alleged inadequate conditions of detention of the applicant, who had complained to the Lithuanian administrative courts that he had been detained, for a first period, in overcrowded dormitory-type rooms; the national judges found that for forty-seven days the man had had only 2.97 square meters of personal space available, in violation of national regulations on the matter. As for the second period of detention, the applicant complained that he had been kept in dilapidated and inadequately lit disciplinary cells. Again, the Lithuanian administrative courts had upheld his complaints, stating that the national legislation applicable to the case had been breached during the entire 29-day period. However, the national authorities, considering that the acknowledgment of the violations suffered by the applicant constituted just satisfaction in respect of any moral damage sustained by him, had not awarded any monetary compensation. Therefore, the applicant turned to the European Court, complaining that he was detained in inadequate conditions, in violation of art. 3 of the Convention, and that he had not been awarded any compensation.

The Lithuanian Government, while not explicitly raising an objection regarding the applicant's victim status, argued that an acknowledgment of a violation by the domestic courts should be considered as adequate redress in the circumstances of the case. However, according to the constant orientation of the European Court, anyone who has been detained in inhuman or degrading conditions must be able to claim compensation. In consideration of the fact that the applicant has not been awarded any compensation, there is no reason to doubt that he can claim to be considered a «victim» pursuant to art. 34 of the Convention, to the extent that this provision establishes that: «the Court may receive applications from any person [...] claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right». 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).

The Lithuanian Government argued that the conditions of the applicant's detention had not attained the threshold of severity provided for by art. 3 of the Convention. In particular, as regards the first period of detention, they stated that this period had been short and that the lack of personal space had been compensated for by adequate material conditions and the ability to move freely within the facility during the day; as regards the second period of detention, they argued that that period had been even shorter and that the inconvenience sustained by the applicant had to be considered minor.

However, the Strasbourg Court found that, according to its own jurisprudence, the periods of detention lasting forty-seven and twenty-nine days cannot be considered short: as regards the first period of detention, where for forty-seven days the applicant had 2.97 square metres of personal space, the lack of personal space raised a strong presumption of a violation of art. 3 of the Convention which has not been rebutted by the Lithuanian authorities; with regard to the second period of detention, in which the applicant spent twenty-nine days in dilapidated disciplinary cells with insufficient lighting, the European judges stated that those conditions, particularly when coupled with the fact that the applicant remained locked in disciplinary cells for most of the day, likewise cannot be considered adequate under the same provision. 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. Having regard to its case-law, the ECHR considered it reasonable to award the applicant 2,800 euros (EUR) in respect of non-pecuniary damage.

Riferimenti Normativi:

- art. 3 Convenzione Europea dei Diritti dell'Uomo