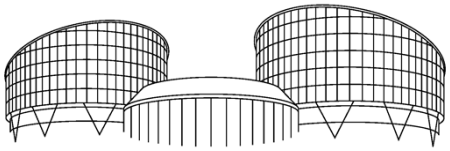

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF D.T. v. GREECE

(Application no. 51829/21)

JUDGMENT

Art 3 (substantive) • Inhuman or degrading treatment • Lack of adequate psychiatric monitoring of a prisoner with a serious mental-health disorder
Art 13 (+ Art 3) • Effective remedy • Complaint to the prison council and an appeal to the relevant court for the execution of sentences under Articles 6 and 86 of the Penal Code constituting an effective remedy at the applicant's disposal • Complaint to the supervising prosecutor under Article 567 (former 572) of the Code on Criminal Procedure not an effective remedy in view of the absence of the possibility of judicial review

Prepared by the Registry. Does not bind the Court.

STRASBOURG

1 September 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of D.T. v. Greece,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Lətif Hüseynov,
Darian Pavli,
Diana Kovatcheva,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 51829/21) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Greek national, Mr D.T. ("the applicant"), on 15 October 2021;

the decision to give notice to the Greek Government ("the Government") of the complaints concerning Articles 3 and 13 of the Convention regarding the authorities' failure to provide the applicant with adequate psychiatric monitoring and medication while in detention and the availability of an effective remedy in that respect, and to declare the remainder of the application inadmissible;

the decision not to have the applicant's name disclosed;

the decision to request further information by the parties;

the parties' observations;

Having deliberated in private on 30 June 2026,

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

INTRODUCTION

1. The case concerns the applicant's allegations under Articles 3 and 13 of the Convention that the medical care he received while in pre-trial detention had been inadequate, and that he had not had at his disposal an effective domestic remedy to complain thereof.

THE FACTS

2. The applicant was born in 1984 and was detained in Korydallos Prison from 19 March 2021 until 18 April 2022. He was represented by Mr V. Tzevelekos and Mr S. Tsiotas, lawyers practising in Athens.

3. The Government were represented by their Agent, Ms N. Marioli, and their Agent's delegates, Ms Z. Chatzipavlou and A. Karagianni, Legal Adviser and Legal Representative at the State Legal Council, respectively.

4. The facts of the case may be summarised as follows.

I. CONTEXT

5. The applicant suffers from bipolar disorder and is a drug addict.

6. According to the medical documents submitted by him, the applicant was hospitalised in 2007 in Aiginiteio Nosokomeio, a public hospital, because he had been suffering from an episode of "bipolar psychosis" (*διπολική ψύχωση*). In 2012, the applicant was hospitalised for several weeks, according to a certificate signed by his treating psychiatrist in Dromokaiteio Psychiatric Hospital. The certificate stated that the applicant was suffering from bipolar disorder (*διπολική διαταραχή*), which had been the reason for his hospitalisation.

7. In 2015, the Social Security Fund certified that the applicant fulfilled the conditions to be certified as 67% disabled, noting that he suffered from bipolar disorder, had been hospitalised at least two times for that reason, and was receiving medication (Depakine Chrono 500 mg, Akineton 2 mg, Aloperidin 3 mg and Invega 9 mg). For that reason, the applicant was awarded disability benefits.

II. CRIMINAL PROCEEDINGS AND PRE-TRIAL DETENTION

8. On 4 December 2020, the applicant was charged with joining a criminal organisation and drug trafficking, and was detained at Korydallos Prison Psychiatric Hospital in accordance with detention order no. 148/2020 of the Athens Investigating Judge.

9. On 17 December 2020, pursuant to an order of the Investigating Judge, an expert examination was carried out to determine whether the applicant was a drug addict within the meaning of Article 30 § 1 of Law no. 4139/2013 for the purpose of the applicant's criminal trial. In his report, the psychiatrist appointed by the court concluded as follows:

> "[the applicant] is a drug addict (cocaine ; stimulant pills) ... he suffers from an underlying disorder that aggravates his drug addiction and [has been] diagnosed [with] Bipolar Emotional Psychosis (F31), within the meaning of Article 30 § 1 of Law no. 3459/2006 and Article 30 §§ 1, 2 and 3 of Law no. 4139/2013, as currently in force. He needs special therapeutic care and treatment because he is unable to eliminate the effects of drug use by himself."

10. On 22 December 2020, in the context of proceedings regarding the applicant's pre-trial detention, the applicant's treating psychiatrist at Dromokaitio Psychiatric Hospital (see paragraph 6 above) issued a medical opinion. The psychiatrist attested that he had been treating the applicant since 2012. The applicant had twice been subjected to involuntary hospitalisation owing to bipolar disorder. His condition was a "serious psychiatric disorder of a chronic nature (with periods of crisis and remission)" which could have serious effects on his behaviour, particularly during crises. The applicant should "receive medication without fail, be subject to regular psychiatric

monitoring and avoid using cannabis" and should avoid as far as possible situations that could negatively impact his mental health.

11. In his submissions dated 12 May 2021 to the Indictment Division of the Athens Court of Misdemeanours, in the context of proceedings to decide on the prolongation of his pre-trial detention, the applicant alleged, *inter alia,* that his pre-trial detention was incompatible with his state of health as it would not be possible for him to be regularly monitored by a psychiatrist. He also submitted that he had taken his medication without fail and that he had not taken any drugs for eight months. In case of release, he would be hosted by his mother and join a drug rehabilitation program. He concluded that, in the light of his medical condition, prolonging his detention would be manifestly disproportionate to the gravity of the crime of which he had been accused.

12. On 7 June 2021, the Indictment Division of the Athens Court of Misdemeanours decided to prolong the applicant's detention until 27 November 2021 by order no. 1987/2021. It noted that there was a reasonable suspicion that the applicant had committed felonies that carried a possible sentence of life imprisonment and that the suspected crimes had been carried out repeatedly, with significant organisation and planning, and sometimes within schools. Therefore, the court was satisfied that the legal conditions for pre-trial detention had been fulfilled and that the mere imposition of restrictive measures without detention could not ensure that the accused would remain available to the authorities during the investigation or that he would appear for trial.

13. On 6 July 2021, by order no. 198/2021, the Athens Investigating Judge dismissed the applicant's request that his pre-trial detention be lifted. The applicant had reiterated in his submissions his arguments regarding his state of health (see paragraph 11 above). The Investigating Judge noted that the applicant had submitted a psychiatric report stating that he was a drug addict. However, in accordance with Article 30 of Law no. 4139/2013, drug addicts were not entitled to favourable treatment in connection with the offence of which the applicant was accused. Therefore, there were no grounds to further assess the said psychiatric report.

14. By its order no. 1476/2021, the Indictment Division of the Athens Criminal Court of Appeal extended the applicant's pre-trial detention until 27 May 2022.

15. On 14 April 2022, the Athens Criminal Court of Appeal acquitted the applicant of the charge of joining a criminal organisation and convicted him of drug trafficking, carried out as a drug addict, for which it imposed a four-year prison sentence. It ruled that the sentence would be suspended if the applicant decided to lodge an appeal, pending the outcome of that appeal.

16. The applicant did lodge an appeal and was accordingly released on 18 April 2022.

III. MEDICAL CARE RECEIVED IN DETENTION

17. The applicant was initially detained in Korydallos Prison Psychiatric Hospital from 4 until 11 December 2020. On 11 December 2020 he was transferred to Amfissa Prison and remained there until 19 March 2021. On 19 March 2021 the applicant was transferred to Korydallos Prison. He was detained there until his release on 18 April 2022.

18. In a document dated 23 January 2023, made for the purposes of the proceedings before the Court, the Deputy Director of Korydallos Prison summarised the conditions in which the applicant had been detained. He stated that the applicant had been examined by the psychiatrist at Korydallos Prison Psychiatric Hospital on 4 December 2020 and by an independent expert psychiatrist on 5 December 2020. On 18 February 2022 he had again been examined by the psychiatrist at Korydallos Prison. The applicant had said that he had not been taking his medication regularly, and the psychiatrist had decided to alter the applicant's medical treatment by "prescribing one additional pill". The applicant had received the prescribed medication indicated in his medical file and had had access to the prison pharmacy. The Deputy Director also noted that the applicant had not lodged any complaints to the prison council or other public authorities. He concluded that the applicant had received adequate medical treatment as he had been under psychiatric monitoring and had been prescribed medication by the prison psychiatrists.

19. The applicant's medical file attested that the applicant suffered from bipolar disorder and was under treatment. It contained the following documents in particular:

(a) A discharge note from Korydallos Prison Psychiatric Hospital dated 7 December 2020, in which the following medication had been prescribed: Depakine Chrono 500 mg (twice at night), Nozinan 25 mg (once at night), Akineton 2 mg (once at night), Aloperidin 10 mg (once at night), Invega 9 mg (once in the morning).

(b) An individual medical card signed by the Amfissa Prison doctor on 11 December 2020 (a general practitioner), attesting that the applicant suffered from bipolar disorder and was under treatment. This card included a note by that practitioner that the applicant had been prescribed additional medication: Nozinan 25 mg (half a tablet at night).

(c) The applicant's medical file from Korydallos Prison, in which a psychiatrist had inserted a handwritten note dated 18 February 2022 to the effect that the applicant had reported not wishing to take the medicine Stedon 10 during the night.

(d) The overall medical documentation contained entries of treatment for dermatitis, knee problems and a burnt finger.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LEGISLATION

A. Penal code (Σωφρονιστικός Κώδικας)

20. Law no. 2776/1999 (enacting the Penal Code - *Σωφρονιστικός Κώδικας*), as in force at the material time, provided as follows, in so far as relevant:

Article 6
Legal protection of inmates

"1. Prisoners have the right to submit written complaints within a reasonable time to the prison council in the event of unlawful acts or orders taken against them, provided that this Code does not provide for any other remedy. Within fifteen days of notification of a decision to reject a complaint, or one month after the complaint was lodged if the administration has failed to make a decision, inmates have the right to bring the matter before the competent court for the execution of sentences. If the court upholds the complaint, it shall order measures to remedy the unlawful act or order. ...

..."

Article 10
Prison Council

"1. Every penal institution has a prison council. The prison council consists of three members: the facility director, who serves as chair, the most senior social worker and the most senior specialist ...

2. The prison council meets at least once a week and on an *ad hoc* basis when there is a specific reason to do so ...

...

4. The competent member of the judiciary [the supervising prosecutor] may attend the meetings, either upon invitation by the body or at his own initiative. ...

..."

Article 27
Healthcare

"1. The [prison] administration ensures that detainees enjoy healthcare that is comparable to that of the general population.

2. Every detainee is examined by the doctor of the facility upon his or her arrival there, and every six months thereafter, and can also request at any time to be examined by a doctor from the facility or [a doctor] of his or her own choice ... The expense incurred by the attendance of a doctor of the inmate's choice is borne by the latter. ...

..."

Article 30
Hospitalisation in therapeutic penal facilities or hospitals

"1. Inmates of penal institutions, except for those at Korydallos Prison Complex, who fall ill during their incarceration, as well as those with severe mental health issues, are admitted to the facility's infirmary or confined to a special unit. If their condition so requires, upon the recommendation and medical opinion of the facility's attending doctor and following an order from the director of the relevant clinic, they are transferred to a special therapeutic or psychiatric unit of the nearest hospital in the regional unit where the penal institution is located or to a corresponding hospital unit in the same region. If deemed necessary by the director of the relevant therapeutic or psychiatric unit, inmate patients are admitted, upon his or her order, to a special therapeutic penal institution, where they undergo necessary hospitalisation measures or therapeutic programs. The stay of inmates in the infirmary of a penal institution may not exceed one (1) month.

..."

Article 85
Powers of the member of the judiciary

"The competent member of the judiciary shall perform the duties prescribed by applicable law. In particular, he or she decides on matters assigned to him or her under this Code, exercises the powers set forth in Article 567 of the Code of Criminal Procedure, sits on the court for the execution of sentences, and is entitled to appeal against decisions of the prison council, in which case he or she is excluded from the composition of the said court during the hearing of his appeal."

Article 86
Supervision by the court for the execution of sentences

"1. The court for the execution of sentences ... rules on appeals that are lodged in accordance with the provisions of the present Code against decisions: a) of the prison council, ...

..."

B. The Code of Criminal Procedure

21. The Code of Criminal Procedure as in force at the material time provided, in so far as relevant, as follows:

Article 290
Appeal of the person subject to pre-trial detention

"1. The accused may appeal to the indictment division of the [relevant] misdemeanour court against the investigating judge's order imposing pre-trial detention or alternative measures. The appeal must be filed within ten (10) days of the imposition of the pre-trial detention ...

...

4. When considering the appeal, the indictment division may lift the pre-trial detention or replace it with alternative measure imposed at its discretion ...

..."

Article 291
Lifting or replacement of pre-trial detention with house arrest with electronic monitoring and restrictive conditions.

"2. A person who is in pre-trial detention ... may submit a request to the investigating judge for the lifting of [that measure] or for [its] replacement with alternative measures or with house arrest with electronic monitoring ..."

"3. The investigating judge, after hearing the prosecutor, may, by a reasoned order, replace pre-trial detention ... with alternative measures ..."

Article 567
Who exercises supervision and how it should be exercised

"1. The public prosecutor at the misdemeanour court in the jurisdiction of which the sentence is being served exercises the powers provided for in the Code of basic rules for the treatment of prisoners and ensures the enforcement of the sentence and the application of security measures, in accordance with the provisions of the present Code, the Criminal Code, and the special laws governing the execution of sentences.

2. To exercise the powers set forth in paragraph 1, the public prosecutor at the misdemeanour court visits the prison at least once a week. During these visits, he receives prisoners who have requested a hearing.

..."

C. Ministerial decision no. 58819/2003

22. In so far as relevant, Ministerial Decision no. 58819/2003 provides:

Article 6
Control of lawfulness

"1. The competent supervising prosecutor is responsible for reviewing the lawfulness of the execution of custodial sentences and the detention of defendants, individuals detained for debts, 'remaining' detainees, and other categories of detainees.

2. This oversight includes: a) monitoring the application of laws concerning the execution of sentences and security measures, b) ensuring fair treatment and judicial protection for all detainees, and c) informing the competent judicial and administrative authorities, as appropriate, of the content of hearings or reports by prisoners or staff members, from which evidence emerges of criminal acts or disciplinary offenses committed by prisoners or staff."

Article 7
Prosecutorial supervision

"1. As part of his or her supervisory duties, the prosecutor cooperates with the director and the heads of departments and provides recommendations on matters relating to the enforcement of sentences.

2. The supervising prosecutor or his or her deputy exercises judicial, disciplinary, and supervisory powers. In particular, the supervising prosecutor:

1) shall ensure compliance with the provisions in force at any given time regarding the treatment of inmates, including those of the Criminal Code and special laws concerning the execution of sentences and the application of security measures,

2) shall preside over the disciplinary council and the prisoners' labour council,

3) shall grant special leave to prisoners to meet their family, professional, or other exceptional and unforeseen needs of an extraordinary nature ...,

4) shall decide on the days to be credited upon the recommendation of the prisoners' labour council,

5) shall participate, upon invitation or at his or her own initiative, in the meetings of the prison council,

6) shall preside over the prison council when it rules on a proposal by the prison director regarding the transfer of an inmate,

7) may, at his or her discretion, lodge appeals against decisions of the prison council before the indictment division of the misdemeanour court sitting as a court for the execution of sentences,

8) shall sit in the indictment division of the misdemeanour court in the district where the penal institution is located when it sits as a court for the execution of sentences, unless it is hearing an appeal lodged by him or her against a decision of the prison council,

9) shall receive detainees or their relatives or attorneys, at their request;

10) shall examine issues related to the judicial protection of detainees, advising those concerned to take the appropriate steps and forwarding requests for legal assistance to the competent authorities from detainees who are financially unable to access justice and exercise their rights of defence, in accordance with the provisions of Article 33 of this [Ministerial Decision],

11) shall call upon the police to provide any necessary assistance in the event of mass insubordination, mutiny or resistance by detainees to a lawful order and, in particular, resistance to an order to return to and be confined in cells or wards,

12) shall supervise enhanced security measures of the institutions,

13) shall impose restrictions on the living conditions of detainees in exceptional cases to ensure the smooth operation and security of the facility under his or her supervision,

14) shall decide whether or not to place the children of female detainees in childcare facilities after they turn three years of age, provided they lack a suitable family environment, after hearing their parents,

15) shall invite academics specialising in the area to collaborate [with him or her] and utilise their observations and the findings of their research when they pertain to the institution which he or she supervises,

16) shall ensure that health inspections of the detention facility are conducted regularly, during the first ten days of each quarter and on an *ad hoc* basis whenever deemed necessary, and is present when such inspections take place,

17) shall order that the appropriate measures be taken, as the case may be, if a detainee is unable to consent or refuses to consent to a medical procedure deemed necessary for his or her health by the treating medical practitioner,

18) shall order that appropriate measures be taken, upon the recommendation of a qualified medical practitioner, in the case of a prisoner on hunger strike whose condition means that he or she is in danger of dying or of suffering serious and permanent harm to his or her health, taking into account the prisoner's personality, his or her objectives, and the firmness of his or her decision,

19) shall determine, after obtaining an appropriate medical opinion, the course of action required by the legal or factual situation of prisoners awaiting trial,

20) shall call upon a medical practitioner of the appropriate specialty to examine detainees when no such doctor is on duty at the detention facility or is available, selecting from a roster of visiting doctors and nurses, upon the recommendation of the facility director,

21) shall take any other actions provided for in the present Decision and supervise compliance with them."

D. Law no. 4139/2013

23. Law no. 4139/2013 regarding "addictive substances and other provisions", as in force at the material time, provided, in so far as relevant, as follows:

Article 31
Special treatment of persons using drugs during the pre-trial phase

"In the case of offenses under Articles 20 through 25, 29, and 30 (4), as well as in the case of an offence allegedly committed to facilitate the use of narcotic substances, provided that such offenses have been committed by a person who has developed a habit of using narcotic substances and is unable to overcome [his or her habit] without help within the meaning of Article 30, paragraph 1, the [following special treatments may be applied.]

a) If the defendant states that he or she wishes to attend a physical and psychological rehabilitation program at an organisation approved under Article 51, the investigating judge, with the consent of the public prosecutor, may, either independently or in lieu of pre-trial detention, impose as an alternate measure the defendant's admission to an appropriate rehabilitation program.

b) When pre-trial detention is imposed, the defendant may declare to the prison council, pursuant to Article 10 of the Penal Code, that he or she wishes to participate in a special rehabilitation program approved under Article 51 offered by an organisation operating within therapeutic or special detention facilities or detention facilities or sections thereof, if such a program is in operation. For this purpose, he or she participates in a diagnostic and physical detoxification program lasting from one to three weeks, depending on his or her needs as determined by the person in charge of the relevant program. A special committee appointed by the Minister of Justice, Transparency, and Human Rights and consisting of the aforementioned prison council, to which is added the head of the physical detoxification program or the head of the psychological rehabilitation program of the detention facility, after verifying the successful completion of the aforementioned phase, shall offer the defendant the opportunity to participate in a specialised psychological rehabilitation program. Paragraph 3 of Article 34 shall apply *mutatis mutandis*. The time spent in the facilities referred to above shall be counted as time in pre-trial detention or, in the event of a conviction and [the imposition of] a custodial sentence, as time served.

c) In the event that pre-trial detention is replaced with alternate measures, the competent judicial council may include among the measures imposed the applicant's participation in a drug rehabilitation program, provided that the applicant has been accepted by an agency approved for that purpose."

Article 32
Legal consequences of the participation of therapeutical rehabilitation programs outside of correctional facilities

"1. In the case of crimes referred to in Article 31, other than the crimes defined in Article 23 and other than the crimes listed in Articles 187A, 299, 310 § 3, 311, 322, 323, 324, 336, and 380 § 2 of the Criminal Code, provided that these have been committed by a person [subsequently] participating in a physical and psychological rehabilitation program of organisations approved under Article 51, then:

...

(c) The court that gave the ... judgment shall suspend the execution of custodial and monetary penalties imposed on a person attending a physical and psychological rehabilitation program approved under Article 51 outside of penal institutions until completion of the program, provided that such penalties relate to acts referred to in this paragraph that were committed prior to the defendant's admission to the treatment program and provided that the program director certifies the defendant's consistent attendance. Such a suspension is granted on the condition that the defendant continues to attend and completes the rehabilitation program and is revoked in the event of a violation of these conditions ..."

II. CASE-LAW OF THE DOMESTIC COURTS

24. In judgment no. 582/2021 delivered on 23 April 2021 the Supreme Administrative Court, sitting in plenary session, held that the combined interpretation of Article 96 § 1 of the Constitution and Article 2 § 2 of the Penitentiary Code meant that the courts for the execution of sentences had general competence to rule on any appeal by a detainee against an act or omission regarding the execution of his or her sentence which affected his or her legal rights. Therefore, it found that it did not have jurisdiction to rule on such an issue in the context of administrative proceedings.

25. The Court of Cassation held by its judgment no. 1684/1998 delivered in 1998 that any doubt relating to issues that arose during the execution of a sentence and which was independent of the lawfulness of the judgment convicting the person concerned should be resolved in accordance with the Penal Code and other relevant legislation.

III. REPORT FROM THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

26. The CPT, in its report of 2 September 2022 (CPT/Inf (2022) 16) on its *ad hoc* visit to Greece from 22 November 2021 to 1 December 2021, noted

the following with regard to the medical records kept at Korydallos Prison Special Health Centre (emphasis in original):

> "72. As was the case previously, there was still no single comprehensive multi-disciplinary medical record opened and maintained for each prisoner. Doctors tended to write in their own individual daily journals while nursing staff wrote in a separate daily journal. Patients still do not have an individual care plan, and it was not possible to fully understand the chronology of a person's care given that the information was recorded in a variety of different places. Further the individual entries of the doctors tended to be very brief and did not describe the patients' care needs. It is high time that an adequate medical records system as well as an individual care plan for each patient be introduced.
>
> **The CPT reiterates its recommendation that the Greek authorities ensure that a single computerised electronic health record be established for each patient. Further, an individual care plan should be drawn up for each patient.**"

THE LAW

I. PRELIMINARY REMARKS

27. In his application form submitted to the Court at the outset of the proceedings, the applicant complained, among others, under Article 3 of the Convention of specific deficiencies in the medical treatment he had received while in detention in Korydallos Prison, namely insufficient psychiatric monitoring and inadequate medication. He also complained under Article 13 of the Convention of the absence of an effective remedy in this respect. The Court gave notice of the aforesaid complaints to the respondent Government and declared the remainder of the application inadmissible. Subsequently, in his observations in reply to those submitted by the Government the applicant complained under Articles 3 and 13 of the Convention that he should not have been placed in a prison owing to his state of mental health and drug addiction, and that the domestic authorities had failed to address that issue and consider alternatives to detention.

28. The Court notes that the alleged failure of the authorities to consider alternatives to detention in view of the applicant's state of mental health and drug addiction in breach of Articles 3 and 13 of the Convention concerns a new act or omission which was not raised in the application form. This complaint is not an elaboration of the applicant's original complaints to the Court which were communicated to the Government. They therefore fall outside of the scope of the present case and will not be taken into consideration (compare*, mutatis mutandis*, *Tereshchenko v. Russia*, no. 33761/05, § 75, 5 June 2014, and *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 32, 24 April 2025).

29. Further, the applicant complained in his observations (a) that he had not been examined by a psychiatrist upon his arrival at Korydallos Prison Psychiatric Hospital, (b) that he had been pressured into taking medication

while detained in Amfissa Prison and (c) that the general conditions of detention prevailing in Korydallos Prison constituted inhuman or degrading treatment. However, the Court notes that when the application was notified to the Government, the Section President acting as Single Judge declared inadmissible by means of a partial decision the complaints regarding all aspects of the applicant's detention in Korydallos Prison Psychiatric Hospital and Amfissa Prison as well as the complaint concerning the general conditions of detention prevailing in Korydallos Prison. At the present stage of the proceedings the application therefore concerns only the applicant's complaints under Articles 3 and 13 of the Convention about the shortcomings in medical treatment during his detention in Korydallos Prison. The Court cannot give a formal ruling on whether the medical treatment the applicant received while detained in Korydallos Prison Psychiatric Hospital or Amfissa Prison was inadequate and in breach of Article 3 of the Convention (see, *mutatis mutandis*, *Avotiņš v. Latvia* [GC], no. 17502/07, § 97, 23 May 2016, with further reference). However, in ascertaining the adequacy of the medical treatment received in Korydallos Prison, the Court cannot but have regard to the relevant aspects of his medical treatment in the other facilities where the applicant was previously detained in so far as they had an impact on the medical treatment the applicant received in Korydallos Prison.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

30. The applicant complained that he had not received adequate medical care while detained in Korydallos Prison, and more particularly, that he had not received adequate psychiatric monitoring and medication. 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

31. The Government did not raise an objection as regards the admissibility of this complaint.

32. The Court notes that the Government, even though they submitted that the applicant had not made use of effective remedies that were at his disposal (see paragraphs 39 and 63-64 below), did not raise an explicit plea of inadmissibility on grounds of failure to exhaust domestic remedies (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, §§ 60-61, 15 November 2018). Accordingly, the Court cannot examine this question of its own motion (see *M.C. v. Türkiye*, no. 31592/18, § 44, 4 June 2024, with further references).

33. The Court notes that this complaint 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

1. The parties' arguments

(a) The applicant

34. The applicant argued that the prison authorities had been informed of his condition and referred to multiple documents showing that that was the case. In particular, the psychiatric expertise of 17 December 2020 had found that the applicant was a drug addict and mentally ill (see paragraph 9 above). Further, there had been medical files at public hospitals and with the social security authorities attesting to his condition (see paragraphs 6-7 above). The authorities had been made aware of the medical opinion dated 22 December 2020 which had been produced in the proceedings regarding his pre-trial detention (see paragraphs 10-11 above). However, no measures had been taken to follow up on those medical opinions.

35. Regarding psychiatric monitoring, the applicant contended that, throughout his fourteen-month detention in Korydallos Prison, only one brief encounter with a psychiatrist had occurred, in February 2022. The applicant insisted that he had repeatedly complained to the prison authorities, but his requests had not been registered because of organisational chaos at the prison. He alleged that, at the relevant time, there had been an informal practice in the Korydallos Prison whereby inmates wrote their names on a piece of paper if they wished to be examined by a psychiatrist, and stated that he was not in a position to know if the psychiatrist had ever received the pieces of paper. He argued that he had not benefited from regular monitoring by a competent medical practitioner and had been subjected to medical abandonment.

36. Regarding the adequacy of the prescribed medication, the applicant argued that it had been prescribed "automatically" by the prison psychiatrist after the applicant had informed him of the previous prescription given by his treating psychiatrist. He further alleged that the administration of the prescribed medication had been fragmented or irregular: he had regularly been administered only Invega and Aloperidin, and usually administered Depakine Chrono; certain irregularities in the administration of medication had occurred after eight months of detention; and in the last four months of his detention, he had not been given Akineton, Depakine Chrono or Nozinan. Further, the authorities had failed to keep a record of when he had been given his medication.

(b) The Government

37. The Government contended that the applicant had been subject to an initial psychiatric assessment upon his detention and had been prescribed medication upon his arrival at Korydallos Prison Psychiatric Hospital on 4 December 2020. On 18 February 2022 he had been examined by a psychiatrist at Korydallos Prison, who had decided to amend his medical treatment. The applicant had therefore been under psychiatric observation at Korydallos Prison, as evidenced by the fact that the prison psychiatrist had decided to alter the applicant's prescribed medication when he had deemed it necessary. The Government noted that the prison psychiatrists had not considered it necessary at any point to temporarily hospitalise the applicant in Korydallos Prison Psychiatric Hospital under Article 30 of the Penal Code. They referred to the medical opinion dated 22 December 2020 (see paragraph 10 above) and noted that the prison psychiatrist had prescribed the same medical treatment as the one prescribed by the applicant's treating psychiatrist outside of prison (namely a combination of medication and regular monitoring by a psychiatrist). That treatment had indeed been provided to the applicant. Lastly, the applicant had also been able to receive healthcare at Korydallos Prison Special Health Centre.

38. The Government also noted that the applicant had refused to take some medication and had failed to follow the instructions of medical specialists, having reported to the psychiatrist of Korydallos Prison on 18 February 2022 that he had not been taking medication correctly. The applicant's grievances were contradictory, as he had claimed for the first time in his observations that certain medicines had not been administered to him at all.

39. The Government maintained that it had been for the applicant to discharge the burden of proof and provide evidence that his mental health condition required special treatment, and to indicate what that treatment was. While the applicant argued that he had requested to be seen by a psychiatrist several times, he had not provided any evidence to that effect, even though he had had effective remedies at his disposal to complain of inadequate healthcare, namely Article 567 of the Code of Criminal Procedure (Article 572 in the former Code) and Article 6 of the Penal Code. The complaints the applicant had made before the domestic courts had been vague and aimed solely at the lifting of his pre-trial detention, not a change in his medical treatment.

2. The Court's assessment

(a) General principles

40. The Court reiterates that Article 3 imposes an obligation on the State to protect the physical well-being of persons deprived of their liberty by, among other things, providing them with the requisite medical care. Thus, the

Court has held on many occasions that lack of appropriate medical care may amount to treatment contrary to Article 3. In this connection, the "adequacy" of medical assistance remains the most difficult element to determine. The Court reiterates that the mere fact that a detainee is seen by a doctor and prescribed a certain form of treatment cannot automatically lead to the conclusion that the medical assistance was adequate. The authorities must also ensure that a comprehensive record is kept concerning the detainee's state of health and his or her treatment while in detention, that diagnosis and care are prompt and accurate, and that, where necessitated by the nature of a medical condition, supervision is regular and systematic and involves a comprehensive therapeutic strategy aimed at adequately treating the detainee's health problems or preventing their aggravation, rather than addressing them on a symptomatic basis. The authorities must also show that the necessary conditions were created for the prescribed treatment to be actually followed through. Furthermore, medical treatment provided within prison facilities must be appropriate, that is, at a level comparable to that which the State authorities have committed themselves to provide to the population as a whole. Nevertheless, this does not mean that every detainee must be guaranteed the same level of medical treatment that is available in the best health establishments outside prison facilities. On the whole, the Court reserves sufficient flexibility in defining the required standard of healthcare, deciding it on a case-by-case basis. That standard should be "compatible with the human dignity" of a detainee, but should also take into account "the practical demands of imprisonment" (see *Blokhin v. Russia* [GC], no. 47152/06, §§ 136-38, 23 March 2016, with further references).

41. As regards the treatment of prisoners with mental-health problems, the Court has consistently held that Article 3 of the Convention requires States to ensure that the health and well-being of prisoners are adequately secured by, among other things, providing them with the requisite medical assistance. A lack of appropriate medical care for persons in custody is therefore capable of engaging a State's responsibility under Article 3. Obligations under Article 3 may go so far as to impose an obligation on the State to transfer prisoners (including mentally ill ones) to special facilities in order to receive adequate treatment. In the case of mentally ill prisoners, the Court has held that the assessment of whether particular conditions of detention are incompatible with the standards of Article 3 has to take into consideration the vulnerability of those persons and, in some cases, their inability to complain coherently or at all about how they are being affected by any particular treatment. In addition, it is not enough for such detainees to be examined and a diagnosis made; instead, it is essential that proper treatment for the problem diagnosed and suitable medical supervision should also be provided (see *Murray v. the Netherlands* [GC], no. 10511/10, §§ 105-106, 26 April 2016).

42. Allegations of ill-treatment must be supported by appropriate evidence. In assessing evidence, the Court has adopted the standard of proof "beyond reasonable doubt". According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof, are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake. In this connection it should be noted that the Court has held that Convention proceedings do not in all cases lend themselves to a strict application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation). According to the Court's case-law under Articles 2 and 3 of the Convention, where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons under their control in custody, strong presumptions of fact will arise in respect of injuries, damage and death occurring during that detention. The burden of proof in such a case may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Blokhin*, cited above, §§ 139-40, with further references).

43. The Court furthermore reiterates that an unsubstantiated allegation that medical care has been non-existent, delayed or otherwise unsatisfactory is normally insufficient to disclose an issue under Article 3 of the Convention. A credible complaint should normally include, among other things, sufficient reference to the medical condition in question; medical treatment that was sought, provided, or refused; and some evidence – such as expert reports – which is capable of disclosing serious failings in the applicant's medical care (see *Krivolapov v. Ukraine*, no. 5406/07, § 76, 2 October 2018, with further references).

(b) Application of these principles to the present case

44. The Court has established that the scope of the case concerns the applicant's medical treatment during his detention in Korydallos Prison between 19 March 2021 and 18 April 2022. However, in ascertaining the adequacy of the medical care provided to the applicant in Korydallos Prison, the Court will also have regard to the relevant aspects of his treatment in the other facilities where he had been previously detained in so far as they impacted the applicant's medical care in Korydallos Prison (see paragraph 29 above).

45. In the present case, it is established that the prison authorities of Korydallos Prison were aware of the applicant's medical condition upon his transfer to that facility on 19 March 2021. In particular, the applicant's medical file noted that the applicant suffered from bipolar disorder and that he had been prescribed medication by the psychiatrist at Korydallos Prison Psychiatric Hospital (see paragraph 19 above). It included the medical report

written by the independent psychiatrist on 17 December 2020 which stated that the applicant suffered from a mental health disorder, was a drug addict and was in "need of support" (see paragraph 9 above). Furthermore, it transpires that the applicant had previously been hospitalised in public hospitals (see paragraph 6 above) and had been certified as disabled by the social security authorities on account of his mental health condition (see paragraph 7 above).

(i) Psychiatric assessment upon placement in detention and subsequent psychiatric monitoring

46. The Government submitted that the applicant had been under psychiatric observation at Korydallos Prison, as evidenced by the fact that a psychiatrist had seen the applicant on 18 February 2022 and had decided to alter his medication. The Court notes that there is no record of a consultation in the applicant's medical file, only a handwritten note by the psychiatrist dated 18 February 2022 recording the applicant's wish not to receive certain medication (see paragraph 19 above). Noting that the applicant acknowledged having consulted a psychiatrist on that day (see paragraph 35 above), it considers that the psychiatrist must have examined the applicant before recording his wishes in the medical file and accepts that that consultation had been effected.

47. The parties disagreed on whether the above psychiatric monitoring was adequate in view of the applicant's condition (see paragraphs 35 and 37 above).

48. The Court reiterates, being sensitive to the subsidiary nature of its role, that it is not its task to rule on matters lying exclusively within the field of expertise of medical specialists, or to establish whether an applicant in fact required a particular treatment or whether the choice of treatment methods appropriately reflected an applicant's needs. However, having regard to the vulnerability of applicants in detention, once an applicant has adduced prima facie evidence in favour of his or her submissions, it is for the Government to provide credible and convincing evidence showing that the applicant concerned had received comprehensive and adequate medical care in detention (see *Fernandez Iradi v. France*, no. 23421/21, § 55, 4 December 2025, with further references).

49. In the present case, according to the applicant's medical file, the prison psychiatrist of Korydallos Prison Psychiatric Hospital, after examining the applicant when he was first detained, had not given an opinion on whether the applicant needed psychiatric monitoring, but had only prescribed medication (see paragraph 19 above). However, in his medical opinion dated 22 December 2020, the applicant's treating psychiatrist at a public psychiatric institution had stated that the applicant needed regular psychiatric monitoring (see paragraph 10 above). It is not clear whether the latter medical opinion was included in the applicant's prison medical file. The Court nevertheless

considers that that medical opinion had been brought to the attention of the prison authorities as the applicant had submitted it to the courts deciding on the prolongation or otherwise of his pre-trial detention (see, *mutatis mutandis*, *Sławomir Musiał v. Poland*, no. 28300/06, § 74, 20 January 2009, with further reference), where he had also complained that he could not benefit from regular psychiatric monitoring (see paragraphs 11 and 13 above). In any event, the Government did not contend that that report was not known to the prison authorities, and in fact referred to it and acknowledged that the applicant needed regular psychiatric monitoring while contending that he had received such monitoring (see paragraph 37 above, and compare *Fernandez Iradi*, cited above, § 64). Having regard to the medical opinion submitted by the applicant and the Government's position, the Court is satisfied that there is prima facie evidence in favour of the applicant's submission that he was in need of regular psychiatric monitoring, and that the burden of proof should shift to the respondent Government (see case-law cited in paragraphs 42 and 48 above).

50. The Court notes that, based on the evidence adduced by the Government, the applicant saw a psychiatrist only once during his fourteen-month detention in Korydallos Prison after his initial psychiatric assessment, which took place at a different prison facility, namely Korydallos Prison Psychiatric Hospital, on 4 December 2020 (see paragraphs 19 and 46 above). While it is not for the Court to speculate on the adequacy of this frequency of consultations, it notes that in accordance with Article 27 of the Penal Code, medical follow-ups should be ensured by prison doctors at least every six months (see paragraph 20 above).

51. Further, the Court notes with concern that there is no documentation with respect to the applicant's psychiatric consultation that took place in Korydallos Prison, apart from information pertaining to the applicant's medication (see paragraphs 19 and 46 above). Even that information seems to be incomplete, as the Government's assertion that, on 18 February 2022, the prison psychiatrist amended the applicant's medication "by prescribing one more pill" is not reflected in the medical file, but only in the document of the Korydallos Prison Deputy Director (see paragraphs 18, 19 and 37 above). Therefore, the Court can only speculate as to why the applicant saw the psychiatrist on 18 February 2022, why no follow-up sessions were scheduled, and what the psychiatrist's opinion was on the applicant's state of health and its development. Further, the medical file submitted by the Government did not contain any schedule of regular psychiatric consultations. Nor does the applicant's medical file appear to contain any information from the applicant's initial psychiatric assessment at Korydallos Prison Psychiatric Hospital, apart from a prescription for medication (see paragraph 19 above). In view of that evidence submitted by the Government, the Court cannot conclude that the applicant's psychiatric monitoring at

Korydallos Prison was regular, as the Government maintained (see paragraph 37 above).

52. It observes in that connection that the applicable provisions of the Penal Code, particularly Articles 27 and 30 regarding medical care (see paragraph 20 above), do not contain clear guidelines with regards to what should be recorded in a detainee's medical file to document medical examinations and consultations. The Court highlights the obligation of the authorities to ensure that a comprehensive record is kept concerning detainees' state of health and treatment while in detention (see the case-law cited in paragraph 40 above). It further notes the CPT's finding that the medical records kept at Korydallos Prison Special Health Centre tended to be very brief and to lack descriptions of the patients' care needs, and recommended that an adequate medical records system as well as an individual care plan for each patient be introduced (see paragraph 26 above).

53. In view of all the above, the Court considers that the applicant's medical file does not reflect that he was subject to regular psychiatric monitoring at Korydallos Prison, even though his health required such monitoring (contrast *Tarricone v. Italy*, no. 4312/13, §§ 84-85, 8 February 2024). Accordingly, the domestic authorities failed to provide the applicant with adequate psychiatric monitoring.

(ii) Conclusion

54. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 3 of the Convention on account of the lack of adequate psychiatric monitoring at Korydallos Prison, having regard to his vulnerable situation, suffering as he was from a serious mental-health disorder.

55. In view of this finding of a violation of Article 3, the Court does not find it necessary to examine the remainder of the applicant's complaints under this provision, namely that he did not receive adequate medication at the prison.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

56. The applicant complained under Article 13 of the Convention that he did not have at his disposal an effective domestic remedy for his complaint under Article 3 of the Convention. Article 13 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."

A. Admissibility

57. The Government argued that the applicant did not have an "arguable claim" under Article 3 of the Convention and that his complaint under Article 13 was therefore inadmissible.

58. The applicant disagreed.

59. The Court has already found that the failure of the authorities to provide adequate psychiatric monitoring to the applicant during his detention amounted to a violation of Article 3 of the Convention (see paragraph 54 above). Accordingly, it considers that the applicant had an "arguable claim" for the purposes of Article 13 (see *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 385, ECHR 2011, with further references).

60. The Court notes that this complaint 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

1. The parties' arguments

(a) The applicant

61. The applicant complained that he had no effective remedy at his disposal. He contended that Article 6 of the Penal Code and Article 567 (572 in the former Code) of the Code of Criminal Procedure were not effective *vis-à-vis* his complaints. He argued that the remedy introduced into Greek law by Law no. 2985/2022, which added Article 6A to the Penal Code, did not apply to the facts of the case.

62. In his further observations dated 18 December 2025, the applicant continued to maintain that the remedy under Article 567 (572 in the former Code) of the Code of Criminal Procedure was not effective, particularly as there was no effective possibility to lodge an appeal with the court of execution of sentences. He acknowledged that the remedies established under Articles 6 and 86 of the Penal Code were in principle effective in connection with his complaints, including those concerning medical care. However, he argued that the particular circumstances of his case had rendered them ineffective. In particular, his mental health condition meant that he had cognitive and volitional impairments that hampered his ability to take procedural actions and to communicate effectively with his representative. For that reason, and owing to the additional obstacle presented by the applicant's having been in detention, his legal representative had been unable to effectively understand and represent the applicant's psychiatric deterioration. In any event, the applicant had used an equivalent remedy, namely his application for release from pre-trial detention. However, his requests had been dismissed without any reasoning concerning his medical

condition. Therefore, it would be excessively formalistic to require the applicant to have exhausted remedies that would have required a high level of procedural capacity and insight to make use of, when his medical condition deprived him of those qualities and thus rendered the above-mentioned remedies unavailable to him.

(b) The Government

63. The Government noted that the applicant had submitted a request for release from pre-trial detention, which the competent court had dismissed by a reasoned decision examining the applicant's individual situation and state of health and finding that the imposition of restrictive measures would not have sufficed to prevent the commission of new offences. The applicant could also have requested admission to a rehabilitation programme in accordance with Law no. 4139/2013, which he had failed to do. Furthermore, he had at his disposal the remedies under Article 6 of the Penal Code or Article 567 (572 in the former Code) of the Code of Criminal Procedure.

64. The Government argued that, in accordance with Article 567 of the Code of Criminal Procedure, the supervising prosecutor had jurisdiction to supervise the observance of the Penal Code, including its provisions on healthcare. The Government contended that that remedy was effective. It was possible to lodge an appeal against a decision of the supervising prosecutor with the competent court for the execution of sentences, even if such an appeal was not expressly provided in domestic law. However, the Supreme Administrative Court had found that courts for the execution of sentences had general jurisdiction to rule on any appeal by a prisoner against an act or omission related to the serving of sentences (see paragraph 24 above). The absence of case-law demonstrating the effectiveness of lodging such an appeal was not decisive and was owing to the fact that detainees' requests were generally satisfied, or that they preferred to lodge applications with the Court directly. Therefore, the Government invited the Court to maintain its case-law to the effect that the remedy under Article 567 (572 in the former Code) of the Code of Criminal Procedure was effective in cases where applicants complained of circumstances affecting their individual situations. In any event, it was expressly provided in Articles 6 and 86 of the Penal Code that prisoners could lodge an appeal with the relevant court for the execution of sentences against decisions of the prison council.

65. Further, the Government contested the applicant's position that he had been unable to make use of the remedy provided by Article 6 of the Penal Code because of his medical condition. In particular, they noted that the applicant was represented by a lawyer and had lodged an individual application under Article 34 of the Convention during his detention at Korydallos Prison, as well as an application for his release with the domestic court, in which he had complained of the inadequacy of his medical care.

66. Lastly, the Government argued that the remedies provided by Articles 290-91 of the Code of Criminal Procedure could not have provided redress to the applicant as they concerned the prolongation or otherwise of his detention, and could not have led to an examination of the adequacy of the applicant's medical care or have ordered changes thereto.

2. The Court's assessment

(a) General principles

67. The Court reiterates that Article 13 of the Convention guarantees the availability at the national level of a remedy to enforce the substance of Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint; however, the remedy required by Article 13 must be "effective" in practice as well as in law. The "effectiveness" of a "remedy" within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant. Nor does the "authority" referred to in that provision necessarily have to be a judicial authority; but if it is not, its powers and the guarantees which it affords are relevant in determining whether the remedy before it is effective (see *Kudła v. Poland* [GC], no. 30210/96, § 157, ECHR 2000-XI, with further references).

68. Regarding the existing remedies in the Greek legal order with respect to conditions of detention, the Court has ruled in some cases that the applicants had not exhausted domestic remedies owing to a failure to make use of the remedies provided by Article 572 of the (former) Code of Criminal Procedure and Article 6 of the Penal Code (see *Vaden v. Greece*, no. 35115/03, §§ 30-33, 29 March 2007, and *Tsivis v. Greece*, no. 11553/05, §§ 18-20, 6 December 2007). In those cases, the applicants had complained of particular circumstances which had affected them personally as individuals and to which the prison authorities could have put an end by taking the appropriate measures, such as complaints regarding passive smoking and insomnia (see *Vaden*, cited above § 11), placement in a cell with sick detainees (see *Tsivis*, cited above, § 16), placement in solitary confinement (see *Mathloom v. Greece*, no. 48883/07, §§ 27-29 and 48-51, 24 April 2012), and the inadequate treatment of a drug addict (see *Filippopoulos v. Greece*, no. 41800/13, §§ 51-52, 12 November 2015). On the other hand, the Court has ruled on many occasions that when applicants claim to have been personally affected by the general conditions prevailing in a prison, the remedies provided by Article 572 of the (former) Code of Criminal Procedure and by Article 6 of the Penal Code are not effective (see *Zabelos and Others*

v. Greece, no. 1167/15, § 91, 17 May 2018, and *Dikaiou and Others v. Greece*, no. 77457/13, § 68, 16 July 2020, with further references).

(b) Application of these principles to the present case

69. The Court observes that the remedy introduced by Law no. 2985/2022 (Article 6A of the Penal Code) did not apply to the facts of the case *ratione temporis*.

70. The Court further notes that the request for release under Articles 290 and 291 of the Code of Criminal Procedure concerned the lawfulness of the applicant's detention and could have led to the lifting of the detention under certain conditions, or the maintaining of the detention (see paragraph 21 above). In that context, the applicant's condition could have been relevant if it rendered his release imperative. However, it does not follow with sufficient clarity that the domestic court could assess the adequacy of the medical care that the applicant received in detention and order the prison authorities to take the necessary steps to amend it if necessary (see paragraph 21 above). Therefore, the Court considers that the proceedings regarding the applicant's pre-trial detention could not, in the specific circumstances of the present case (see paragraphs 27-28 above), grant appropriate relief with respect to his complaint under Article 3.

71. The Court lastly notes that the applicant had at his disposal the possibility to complain to the supervising prosecutor under Article 567 (572 in the former Code) of the Code of Criminal Procedure. He had also the possibility of lodging a complaint with the prison council and, if his complaint was rejected, of lodging an appeal with the relevant court for the execution of sentences under Articles 6 and 86 of the Penal Code. The Court has constantly found that the above-mentioned remedies are effective where applicants complain of particular circumstances which had affected them personally as individuals and to which the prison authorities could have put an end by taking the appropriate measures (see the case-law cited in paragraph 68 above). A complaint alleging insufficient medical care in detention falls in principle in that category. The Court will consider the two remedies in question separately.

(i) Article 567 (572 in the former Code) of the Code of Criminal Procedure

72. The Court observes that the provision of Article 567 of the Code of Criminal Procedure replaced Article 572 of the former Code of Criminal procedure, and that the wording of the two provisions is identical (see paragraph 21 above, and compare with *Martzaklis and Others v. Greece*, no. 20378/13, § 36, 9 July 2015).

73. The applicant contested the effectiveness of this remedy, relying in particular on the absence of a possibility of appealing against an unfavourable decision to a court.

74. The Court notes that, in accepting in previous cases that the remedy in question was effective, it had considered that a complaint to the prosecutor could be subject to subsequent review by the relevant court for the execution of sentences in accordance with Articles 6 and 86 of the Penal Code (see *Tsivis*, cited above, § 18). However, the Government acknowledged that the provision in question did not expressly provide for the possibility to lodge an appeal with the court for the execution of sentences, but that such a possibility indirectly resulted from a systematic interpretation of the applicable provisions (see paragraph 64 above). In that regard, the Government did not provide any example of case-law where a court for the execution of sentences had heard an appeal against a decision by a supervising prosecutor under Article 567 (572 in the former Code) of the Code of Criminal Procedure, notwithstanding that the Court had explicitly invited them to provide such examples (see also *Kudła*, cited above, § 159; *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 110, 10 January 2012; and *Stanev v. Bulgaria* [GC], no. 36760/06, § 219, ECHR 2012). The Government did not provide a reasonable explanation for the absence of such case-law (see also *Guðmundur Gunnarsson and Magnús Davíð Norðdahl v. Iceland*, nos. 24159/22 and 25751/22, § 48, 16 April 2024). The Court further notes that roughly nineteen years have elapsed since it concluded that the remedy in question was effective (contrast *Charzyński v. Poland* (dec.), no. 15212/03, § 41, ECHR 2005-V). The Court accordingly finds that the Government have failed to show, with reference to demonstrably established consistent case-law in cases similar to the applicant's, that an appeal before a court for the execution of sentences in the context of Article 567 of the Code of Criminal Procedure was, at the material time, sufficiently certain not only in theory but also in practice and offered at least some prospects of success (see *Mikolajová v. Slovakia*, no. 4479/03, § 34, 18 January 2011).

75. In the absence of the possibility of judicial review, the Court concludes that a complaint to the relevant prosecutor under Article 567 of the Code of Criminal Procedure can no longer be considered as an effective remedy in respect of complaints regarding inadequate medical care in detention. Firstly, while a prosecutor can, in principle, be considered to be independent in examining a complaint regarding conditions of detention (see *Csüllög v. Hungary*, no. 30042/08, § 48, 7 June 2011), the supervising prosecutor in the Greek legal order is actively involved in the administration of the supervised prison (see Article 567 of the Code of Criminal Procedure and Article 7 of Ministerial Decision no. 58819/2003 in paragraphs 21-22 above). Further, the Court takes note of the powers of the supervising prosecutor. He or she has the power to ensure that sentences are executed lawfully and, to that end, visits the prison and hears the prisoners who request to be heard. However, there are no legal proceedings that are initiated and to which the prisoner is party, and the applicable provisions do not provide that

the prosecutor adopts a legally binding decision which the prison authorities are obliged to enforce, contrary to the remedy under Article 6 of the Penal Code (see Article 567 of the Code of Criminal Procedure and Articles 6-7 of Ministerial Decision no. 58819/2003 in paragraphs 21-22 above). Therefore, the complaint to a prosecutor in question does not give the person using it a personal right to the exercise by the State of its supervisory powers (see also *Ananyev and Others*, cited above, §§ 102-04).

76. It follows that the remedy provided under Article 567 (572 in the former Code) of the Code of Criminal Procedure is not effective in cases in which prisoners complain of particular circumstances which had affected them personally as individuals and to which the prison authorities could have put an end by taking the appropriate measures.

77. Accordingly, that remedy would not have been effective with respect to the applicant's complaint under Article 3 of the Convention.

(ii) Articles 6 and 86 of the Penal Code

78. The applicant initially contested the effectiveness of the remedy provided under Articles 6 and 86 of the Penal Code in his observations. However, in his subsequent comments, he acknowledged that the remedy in question could in principle be effective with respect to complaints of inadequate medical care in detention. Therefore, the Court sees no reason to deviate from its previous approach (see the case-law cited in paragraph 68 above) and considers that a complaint to the prison council and an appeal to the relevant court for the execution of sentences under Articles 6 and 86 of the Penal Code constitutes in principle an effective remedy in cases in which prisoners complain of particular circumstances which had affected them personally as individuals and to which the prison authorities could have put an end by taking the appropriate measures.

79. Further, the Court is not convinced that the applicant was unable to make effective use of that remedy in view of the circumstances of the present case, namely his alleged inability to communicate with his lawyer with sufficient clarity regarding his exact state of health. The Court notes that the applicant lodged an application seeking his release from pre-trial detention in which he relied in particular on his state of health, submitting in that connection a detailed medical opinion by his treating psychiatrist, and that he lodged the present individual application in accordance with Article 34 of the Convention, being in both cases represented by the same lawyer.

80. It follows that the applicant had at his disposal the remedy provided under Articles 6 and 86 of the Penal Code, which would have been effective with respect to his complaint under Article 3 of the Convention.

(iii) Conclusion

81. There has accordingly been no violation of Article 13 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. 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."

A. Damage

83. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage.

84. The Government contended that the amount requested was excessive and unjustified.

85. The Court awards the applicant EUR 12,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

86. The applicant claimed EUR 7,000, plus VAT, for the costs and expenses incurred before the Court. He relied on a legal agreement concluded between him and Mr Tsiotas, which provided that the applicant should pay the representative EUR 4,000 for studying the case file and lodging the application, and an additional EUR 3,000 if the application was deemed admissible and examined on the merits. The contract further stipulated that the above-mentioned sums, plus VAT, had to be paid after the proceedings before the Court were concluded and, if the amount awarded by the Court with respect to costs and expenses did not cover the totality of the amount contractually stipulated, the applicant would pay it by his own means.

87. The Government argued that the alleged contract adduced by the applicant contained vague and hypothetical costs, the genuineness of which could not be proved as the applicant had not shown that the expenses had been actually incurred. They further noted that the Court was not bound by conditional-fee agreements.

88. The Court reiterates that an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. A representative's fees are actually incurred if the applicant has paid them or is liable to pay them. Accordingly, the fees of a representative who has acted free of charge are not actually incurred. The opposite is the case with respect

to the fees of a representative who, without waiving them, has simply taken no steps to pursue their payment or has deferred it. The fees payable to a representative under a conditional-fee agreement are actually incurred only if that agreement is enforceable in the relevant jurisdiction (see *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 370-71, 28 November 2017, with further references).

89. In the present case, the Court sees no reason to doubt the veracity of the contract submitted by the applicant, and notes that the Government did not adduce evidence to the contrary or contest that it was legally binding and enforceable. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,500 covering costs for the proceedings before it, plus any tax that may be chargeable to the applicant under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the authorities' failure to provide the applicant with adequate psychiatric monitoring while in detention in Korydallos Prison;

3. *Holds* that there has been no violation of Article 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 12,500 (twelve thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Peeter Roosma President