

Press release issued by the Registrar

**CHAMBER JUDGMENT  
DYBEKU v. ALBANIA**

The European Court of Human Rights has today notified in writing its Chamber judgment<sup>1</sup> in the case of *Dybeku v. Albania* (application no. 41153/06).

The Court held unanimously that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 5,000 euros (EUR) in respect of non-pecuniary damage. (The judgment is available only in English.)

**1. Principal facts**

The applicant, Ilir Dybeku, is an Albanian national who was born in 1971 and is currently in Peqin High Security Prison (Albania).

From 1996 onwards the applicant has been suffering from chronic paranoid schizophrenia. For many years he has received in-patient treatment in various psychiatric hospitals in Albania.

On 23 August 2002 two children, aged 10 and 13, and another person died following an explosion in the flat of the applicant's sister's family; others were injured.

On 24 August 2002 criminal proceedings were brought against the applicant, who, on the same day, was arrested and charged with murder and illegal possession of explosives. He was placed in the pre-trial detention facility of Durrës Police Commissariat, where he shared a cell with an unspecified number of prisoners.

On 27 May 2003, on the basis of a medical report, which concluded that at the time of the offence the applicant was in remission, Durrës District Court ruled that he was able to stand trial. The court found him guilty and sentenced him to life imprisonment.

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<sup>1</sup> Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

The applicant appealed unsuccessfully and his requests for new medical examinations were rejected as unnecessary by the domestic courts.

Since December 2003 the applicant has been in three different prisons: Tirana Prison no. 302, Tepelene Prison and Peqin Prison, where he has shared cells with inmates who were in good health and has been treated as an ordinary prisoner, despite his state of health.

According to the Albanian authorities, as it was impossible to provide the applicant with the medical treatment he needed, he was treated with drugs similar to those prescribed by his doctor. He received in-patient treatment in Tirana Prison Hospital only when his health worsened from 26 May 2004 to 2 June 2004 and from 1 December 2004 to 26 January 2005.

The applicant's father and lawyer lodged several complaints with the competent authorities against the prison hospital administration and the medical unit, alleging that they had been negligent in failing to prescribe adequate medical treatment and that the applicant's health had deteriorated because of the lack of medical treatment. Their complaints were dismissed.

Given the applicant's increasingly disturbed state of mind, on 7 January 2005 his lawyer brought proceedings asking for him to be released or transferred to a medical facility on the ground that his detention conditions were inappropriate, given his state of health, and put his life at risk. Based on recent medical reports, the applicant's counsel also asked for psychiatric examinations to be undertaken. Those requests were rejected.

The applicant's appeals were unsuccessful.

## **2. Procedure and composition of the Court**

The application was lodged with the European Court of Human Rights on 25 September 2006.

Judgment was given by a Chamber of seven judges, composed as follows:

Nicolas **Bratza** (British), *President*,  
Josep **Casadevall** (Andorran),  
Giovanni **Bonello** (Maltese),  
Kristaq **Traja** (Albanian),  
Stanislav **Pavlovschi** (Moldovan),  
Ján **Šikuta** (Slovak),  
Päivi **Hirvelä** (Finnish), *judges*,

and also Lawrence **Early**, *Section Registrar*.

## **3. Summary of the judgment<sup>1</sup>**

### **Complaints**

The applicant alleged, in particular, that his detention conditions and the medical treatment he received in prison were not appropriate given his state of health. He also complained about

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<sup>1</sup> This summary by the Registry does not bind the Court.

the unfairness of the legal proceedings concerning his complaints. He relied on Articles 3 (prohibition of inhuman or degrading treatment) and 6 (right to a fair trial).

## **Decision of the Court**

### Article 3

The Court considered that the applicant's complaints about the inadequacy of his detention conditions and the inappropriate medical treatment he received while in prison should be examined under Article 3.

The Court observed that the parties agreed that the applicant was suffering from a chronic mental disorder, which involved psychotic episodes and feelings of paranoia. His condition had also deteriorated by the time he received in-patient treatment in Tirana Prison Hospital.

The Court also noted that all the complaints from the applicant's father and lawyer were disregarded. Indeed, the Court observed that the last assessment of the applicant's health dated back to 2002. The applicant's medical notes showed that he had repeatedly been prescribed the same treatment and that no detailed description had been given of the development of his illness.

The Court considered that the feeling of inferiority and powerlessness typical of those suffering from a mental disorder called for increased vigilance in reviewing whether the Convention had been complied with. While it was for the authorities to decide, on the basis of the recognised rules of medical science, on the therapeutic methods to be used to preserve the physical and mental health of patients who were incapable of deciding for themselves, and for whom they were therefore responsible, such patients nevertheless remained under the protection of Article 3.

The Court accepted that the very nature of the applicant's psychological condition made him more vulnerable than the average detainee and that his detention might have exacerbated to a certain extent his feelings of distress, anguish and fear. The fact that the Albanian Government admitted that the applicant was treated like the other inmates, notwithstanding his particular state of health, showed a failure to comply with the Council of Europe's recommendations on dealing with prisoners with mental illnesses.

The Albanian Government had also failed either to submit detailed information about the material conditions of the applicant's detention or to show that those conditions were appropriate for a person with his history of mental disorder. Furthermore, the Court considered that the applicant's regular visits to the prison's hospital could not be viewed as a solution since the applicant was serving a sentence of life imprisonment.

Many of those shortcomings could have been remedied even in the absence of considerable financial means. In any event, a lack of resources could not in principle justify detention conditions so poor as to reach the threshold of severity for Article 3 to apply.

The Court took into account the cumulative effects of the entirely inappropriate conditions of detention to which the applicant was subjected, which clearly had a detrimental effect on his health and well-being. It also took note of the Council of Europe's Committee for the Prevention of Torture's findings in its latest reports concerning the detention conditions in

Albanian prisons, particularly with regard to prisoners with mental illnesses, and its own case-law. It concluded that the nature, duration and severity of the ill-treatment to which the applicant was subjected and the cumulative negative effects on his health were therefore sufficient to be qualified as inhuman and degrading, in violation of Article 3.

#### Article 6

The Court held that the applicant's complaints under Article 6 were inadmissible.

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The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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*The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*