

Press release issued by the Registrar

**CHAMBER JUDGMENT
SULEJMANOVIC v. ITALY**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Sulejmanovic v. Italy* (application no. 22635/03). The Court held:

- by five votes to two, that there had been a **violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights regarding the applicant's conditions of detention from 30 November 2002 to April 2003 in Rebibbia Prison; and,
- unanimously, that there had been **no violation of Article 3** of the Convention regarding his conditions of detention from April 2003 to 20 October 2003.

Under Article 41 (just satisfaction), the Court awarded the applicant 1,000 euros (EUR) in respect of non-pecuniary damage. ([The judgment is available only in French.](#))

1. Principal facts

The applicant, Mr Izet Sulejmanovic, is a national of Bosnia and Herzegovina who was born in 1973. At the material time he was detained in Rebibbia Prison in Rome.

Between 1992 and 1998 Mr Sulejmanovic had been convicted a number of times on charges of robbery, attempted theft, handling stolen goods and forgery and sentenced to two years, five months and five days' imprisonment.

He was arrested on 30 November 2002, while making an application for a residence permit at the police authority (*Questura*), and imprisoned in Rebibbia Prison. He was given a prison sentence of nine months and five days.

Mr Sulejmanovic was put in a number of different cells, each measuring 16.20 square metres (m²). He claimed that up until 15 April 2003 he had shared his cell with five other inmates, each having an average personal space of 2.70 m², and, from 15 April to 20 October

¹ 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.

2003, with four other inmates, each thus having an average personal space of 3.40 m². He also alleged that he had spent more than eighteen hours per day in his cell and could only go out for four and a half hours.

On 20 October 2003, having been granted a remission of sentence, he was released from prison.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 4 July 2003. It was decided to examine the admissibility and merits of the case at the same time.

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

Françoise **Tulkens** (Belgium), *President*,
Ireneu **Cabral Barreto** (Portugal),
Vladimiro **Zagrebelsky** (Italy),
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
Işıl **Karakaş** (Turkey), *judges*,

and also Françoise **Elens-Passos**, *Deputy Section Registrar*

3. Summary of the judgment²

Complaint

Relying on Article 3, the applicant complained about his conditions of detention, in particular prison overcrowding and insufficient daily exercise outside his cell.

Decision of the Court

It was not in dispute between the parties that for at least two and a half months at the beginning of his detention, Mr Sulejmanovic had shared his cell with six other inmates, each thus having approximately 2.70 m² personal space, which was much less than the standards recommended by the CPT (Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), which had set 7 m² per prisoner as a minimum desirable guideline for a detention cell.

Whilst, in this kind of case, the Court took into consideration the various factors of the detention and did not give a definitive indication of the amount of personal space that should be afforded to prisoners, it found that the flagrantly insufficient amount of personal space available to Mr Sulejmanovic until April 2003 had in itself constituted inhuman or degrading treatment, in violation of Article 3.

After being transferred in May 2003 Mr Sulejmanovic's situation improved: up until his release he had personal space of 3.24 m², 4.05 m² and 5.40 m² respectively.

² This summary by the Registry does not bind the Court.

The Court noted that whilst the prison overcrowding in Rebibbia Prison complained of by the applicant was extremely regrettable, it had not reached alarming proportions at the material time. The Court pointed out that Mr Sulejmanovic had not complained of heating or hygiene problems and had not specified any actual consequences of his detention for his state of health.

Lastly, in accordance with the prison regulations, the total time an inmate could spend outside his or cell was 8 hours and 50 minutes per day.

Accordingly, the Court held that the treatment imposed on Mr Sulejmanovic after April 2003 had not reached the minimum level of severity that would bring it within the scope of Article 3 of the Convention. It concluded that there had been no violation of Article 3 regarding the applicant's conditions of detention after April 2003.

Judge Sajó expressed a concurring opinion, and Judges Zagrebelsky and Jočienė a joint dissenting opinion. Both are annexed to the judgment.

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.