



Placement of a prisoner with mental disorders in a punishment block is not inhuman or degrading treatment but should be subject to appeal with suspensive effect

In today's Chamber judgment in the case of [Cocaign v. France](#) (application no. 32010/07), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

No violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights on account of the applicant's confinement in a punishment cell, his continued detention and the medical treatment he received, and

A violation of Article 13 (right to an effective remedy).

The case concerned the placement of a prisoner with mental disorders in a punishment block and his continued detention.

Principal facts

The applicant, Nicolas Cocaign, is a French national who was born in 1971 and is currently held in Fresnes Prison (France).

Having been admitted to hospital on several previous occasions on account of severe psychiatric problems, the applicant was imprisoned for attempted rape. During the night of 2 to 3 January 2007 he killed a fellow inmate in Rouen Prison by kicking and punching him and stabbing him with scissors, before cutting open his chest and eating part of his lungs. He was transferred to Bois d'Arcy Prison and placed in solitary confinement.

Two sets of proceedings – disciplinary and criminal – were opened. On 17 January 2007 the disciplinary board of Bois d'Arcy Prison sentenced him to 45 days' confinement in a punishment cell for acts of physical violence against a fellow prisoner.

On 18 January 2007 the governor of Rouen Prison applied to the prefect of the *département* of Yvelines to have the applicant compulsorily admitted to a psychiatric institution. The prefect acceded to the request, ordering the applicant's admission to the Villejuif difficult patients' unit. On 14 February a hospital doctor concluded that the applicant's condition no longer justified his involuntary placement. The prefect ordered his return to Bois d'Arcy, where he finished serving his disciplinary penalty.

In the meantime, on 1 February 2007 the applicant had appealed to the Prison Service against the disciplinary penalty. In a decision of 26 February 2007 the Regional Director of the Prison Service upheld the penalty. On 26 April 2007 the applicant applied to the Melun Administrative Court for judicial review of that decision.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Alongside those proceedings, the applicant was placed under investigation by the Rouen investigating judge for premeditated murder and desecration of a corpse.

On 4 October 2007 two psychiatric experts concluded that the applicant had been suffering from a total loss of judgment at the time of the events and could not be held criminally responsible for the murder and acts of cannibalism. On 17 November two other psychiatric experts held that at the time of the events the applicant had not been suffering from a mental disorder that could have caused a total loss of judgment, but found that his judgment had been "impaired" within the meaning of Article 122.1, paragraph 1, of the Criminal Code. On 15 November 2008 a further expert opinion by three psychiatrists concluded that at the time of the acts of which he was accused, the applicant's judgment had been impaired and his control over his actions had been diminished, within the meaning of the same Article. On 26 February 2009, in the context of a separate expert opinion, it was concluded that the applicant had lost all judgment and control over his actions at the time of the alleged offences.

On 14 May 2009 the applicant was committed to stand trial in the Assize Court for acts of torture, barbarity and murder. In a judgment of 24 June 2010 the Assize Court sentenced him to 30 years' imprisonment, with a minimum term of 20 years. It also ordered him to undergo treatment for eight years.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1, the applicant complained that the disciplinary decision taken against him had infringed his rights under that Article. Relying on Article 3, he alleged that his confinement in a punishment cell for 45 days had amounted to inhuman and degrading treatment in view of his psychiatric condition, and also that his continued detention constituted inhuman treatment. Lastly, relying on Article 13, he complained that he had been unable to secure a judicial examination of his complaint about the disciplinary penalty imposed on him, which in his view had infringed his human dignity.

The application was lodged with the European Court of Human Rights on 17 July 2007.

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

Dean **Spielmann** (Luxembourg), *President*,
 Elisabet **Fura** (Sweden),
 Jean-Paul **Costa** (France),
 Mark **Villiger** (Liechtenstein),
 Isabelle **Berro-Lefèvre** (Monaco),
 Ann **Power-Forde** (Ireland),
 Ganna **Yudkivska** (Ukraine), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

[Article 6 § 1 \(right to a fair hearing\)](#)

The Court noted that, as it had previously held, Article 6 § 1 of the Convention was not applicable to disciplinary proceedings in a prison context.

[Article 3 \(prohibition of inhuman or degrading treatment\)](#)

The applicant submitted that, besides the question of medical treatment in itself, the 45-day disciplinary penalty was wholly inappropriate to the nature of the acts of which he

had been accused, and that certain types of treatment could infringe Article 3 on account of the fact that the person being subjected to them was suffering from a mental disorder. Lastly, he contended that keeping him in detention amounted to inhuman treatment.

Regarding prisoners suffering from a mental illness, the Court reiterated that the treatment of a mentally-ill person could be incompatible with the standards imposed by Article 3 concerning the protection of fundamental human dignity, even though that person might not be capable of formulating his complaint. It observed that the period for which the applicant had been sent to the punishment block – 45 days in solitary confinement, the maximum applicable penalty, which had since been reduced by the Prisons Act to 30 days for acts of physical violence – had been particularly long. However, the Court noted that the day after the disciplinary penalty had been imposed, the prison governor had applied for the applicant's compulsory admission to a psychiatric hospital, and an order to that effect had been made four days later. The applicant had spent three weeks in the hospital, and the decision to return him to a punishment cell had been taken only after he had been given appropriate treatment. The rest of the disciplinary penalty had been served under medical supervision.

The Court considered that it could not be inferred from the applicant's illness alone that his confinement in a punishment cell and the execution of that penalty could have constituted inhuman and degrading treatment and punishment in breach of Article 3. It also noted that the applicant was currently being provided with appropriate medical supervision during his detention, and accordingly was not being subjected to hardship of an intensity exceeding the unavoidable level of suffering inherent in detention.

Article 13 (right to an effective remedy)

With regard to the applicant's complaint that he had been unable to secure a judicial examination of his complaint concerning the disciplinary penalty imposed on him, the Court noted that it had previously held that, although a remedy to that effect was provided for in Article D 250-5 of the Code of Criminal Procedure, it did not have suspensive effect, although placement in a punishment cell was usually immediate (see the [Payet](#) judgment, §§ 131-134). An urgent application in relation to such matters had not become possible until the Prisons Act of 24 November 2009, after the events concerning Mr Coccagn had taken place. The Court therefore found a violation of Article 13.

Article 41

Under Article 41 (just satisfaction), the Court held that the finding of a violation of Article 13 constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant.

The judgment is available only in French.

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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.