



Cramped conditions and failure to comply with hygiene regulations in a prison amounted to degrading treatment

In today's Chamber judgment in the case of [Canali v. France](#) (application no. 40119/09), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of degrading and inhuman treatment) of the European Convention on Human Rights.

The case concerned the conditions of detention in the Charles III Prison in Nancy, which was built in 1857 and shut down in 2009 on account of its extremely dilapidated state.

Principal facts

The applicant, Enzo Canali, is a French national who was born in 1953 and lives in Nancy (France). He was remanded in custody from January 2003 to March 2006 on charges of murder. On 24 May 2006, he was sentenced to eight years' imprisonment and immediately began serving his sentence in Charles III Prison in Nancy. This prison, which had been built in 1857, was shut down in 2009 on account of its extremely dilapidated state.

On 15 June 2006 Mr Canali sent a written request to the prison governor and the head warden, asking for a door to be fitted on the toilet in his cell and other repairs. He did not receive a reply.

On 25 July 2006, he lodged a complaint, together with an application to join the proceedings as a civil party, on the basis of Article 225-14 of the Criminal Code, for the purpose of challenging his conditions of detention. On 23 August 2006 the investigating judge invited him to submit copies of the letters sent to the prison administration and to substantiate his allegations.

On 10 October 2006, the prison governor submitted to the investigating judge her observations on the state of the cell, and attached a set of thirteen photographs. She stated that it was in a run-down condition, but had been renovated two years previously. On 31 October 2006, the investigating judge declared the complaint inadmissible, on the ground that, while the offence had been established, liability lay with the prison administration and was a matter for the administrative courts.

Mr Canali appealed against this order. On 22 November 2006, he was transferred to Ecouvres Prison.

By a judgment of 1 March 2007, the Nancy Court of Appeal found that the investigating judge had had jurisdiction to examine the facts as submitted to him in the complaint. It

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

held that these could come within the scope of Article 225-14 of the Criminal Code in so far as, firstly, detained persons were in a vulnerable position and the Code of Criminal Procedure guaranteed that coercive measures taken against them ought not to infringe their dignity, and in so far as, secondly, his detention could partly be considered to concern "living" conditions, in respect of bedding and the sanitary conditions and cleanliness of the premises. A new investigating judge was assigned to the case.

On 12 February 2008 the deputy president of the *tribunal de grande instance* sent instructions to the Nancy Regional Police Department (SRPJ). She asked that the entirety of the judicial proceedings be transferred to the SRPJ, in order to proceed, if necessary, with the investigation. Several prisoners or former prisoners gave evidence between September and November 2008. According to Mr Canali's submissions, following a decision of the Criminal Division of the Court of Cassation on 20 January 2009, the investigating judge could only issue a decision stating that there were no grounds for an investigation.

The Criminal Division of the Court of Cassation indeed found, in a judgment delivered on 20 January 2009 concerning the lodging of a complaint with an application to join the proceedings as a civil party in respect of allegations of living conditions that were incompatible with human dignity during imprisonment, that those facts did not come within the scope of Article 225-14 of the Criminal Code and did not come within the definition of any criminal offence.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of degrading and inhuman treatment), the applicant alleged that he had been subjected to inhuman and degrading conditions of detention in Charles III Prison in Nancy. Relying on Articles 6 (right to a fair hearing) and 13 (right to an effective remedy), he complained that he had not had access to the criminal courts in order to lodge a complaint concerning his conditions of detention.

The application was lodged with the European Court of Human Rights on 20 July 2009.

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

Mark **Villiger** (Liechtenstein), *President*,
Angelika **Nußberger** (Germany),
Boštjan M. **Zupančič** (Slovenia),
Ann **Power-Forde** (Ireland),
André **Potocki** (France),
Paul **Lemmens** (Belgium),
Helena **Jäderblom** (Sweden),

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

Decision of the Court

Article 3

The Court observed that Charles III Prison in Nancy was shut down definitively on account of its dilapidated state in 2009, that is, three years after the facts complained of in this case. It had been built in 1857, and in 2000 a report by the National Assembly on the situation in French prisons described "the unacceptable living areas for male prisoners..., where there are still 16-bed dormitories in which prisoners mark out their individual space with bath towels."

The Court noted that Mr Canali had been held for six months in this prison. He had shared a cell measuring 9 sq. m. with one other prisoner; the cell contained sanitary facilities (a sink and WC) and furniture (a table, bunk bed and two chairs). Such a surface area corresponded to the minimum standard recommended by the Committee for the Prevention of Torture (CPT). In its 2010 Report, the CPT stated that two-prisoner occupation of an individual cell measuring 10.5 sq. m. was acceptable provided that the prisoners had the possibility of spending a reasonable part of the day (at least eight hours) outside the cell.

The living area in question did not in itself justify the finding of a violation of Article 3. The Court reiterated that other aspects of the conditions of detention had to be taken into consideration.

The Court noted, firstly, that Mr Canali had only very limited opportunities to spend time outside the cell. He was locked in his cell for most of the day without freedom of movement, and with one hour in the morning or afternoon for exercise, in a courtyard measuring 50 sq. m.

Secondly, with regard to the sanitary facilities and hygiene, the Court reiterated that access to appropriate toilets and the maintenance of good hygiene conditions were essential elements in an environment for humans. Prisoners had to have easy access to sanitary facilities in which their privacy was protected. A toilet annex that was only partially closed off was not acceptable in a cell occupied by more than one prisoner.

The Court considered that the cumulative effect of the cramped conditions and the failings in respect of hygiene regulations had aroused in the applicant feelings of despair and inferiority capable of debasing and humiliating him. These conditions of detention amounted to degrading treatment, leading to a violation of Article 3.

Articles 6 and 13

Mr Canali had lodged a criminal complaint with an application to join the proceedings as a civil party in 2006, which was an effective and sufficient remedy. When criminal proceedings were blocked by the Court of Cassation's judgment of 20 January 2009, a claim for compensation before the administrative courts remained available in order to complain of detention conditions that were incompatible with dignity. The Court considered that the applicant could not argue that the Court of Cassation's judgment had deprived him of any effective remedy. It dismissed the applicant's complaint as ill-founded.

Just satisfaction (Article 41)

The court held that France was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,784 in respect of costs and expenses.

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.