



Inadequate conditions of detention in Portuguese prisons: the Court recommends that the State adopt general measures to improve the situation

In today's **Chamber judgment**¹ in the case of **Petrescu v. Portugal** (application no. 23190/17) the European Court of Human Rights held, unanimously, that there had been:

Several violations of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights on account of the applicant's conditions of detention in two prisons in Portugal between 2012 and 2016.

In the light of the conditions in which Mr Petrescu had been held in the Lisbon police prison and in Pinheiro da Cruz Prison, the Court found that he had been subjected to degrading treatment for 376 non-consecutive days and to inhuman and degrading treatment for several periods, lasting 385, 36 and 18 days.

The Court recommended that the Portuguese State envisage the adoption of general measures. Firstly, measures ought to be taken to ensure that prisoners were provided with conditions of detention which were compatible with Article 3 of the Convention. Secondly, a remedy ought to be made available to prevent the continuation of an alleged violation or to enable prisoners to secure an improvement in their conditions of detention.

Principal facts

The applicant, Daniel Andrei Petrescu, is a Romanian national who was born in 1987 and lives in Grândola (Romania).

In 2012 Mr Petrescu was arrested and detained in the Lisbon police prison in order to serve a seven-year prison term imposed for theft and criminal conspiracy. He was held there between 9 March 2012 and 17 October 2014, the date of his transfer to Pinheiro da Cruz Prison, which he left on 19 December 2016.

In his application Mr Petrescu complained, in particular, about his conditions of detention, especially prison overcrowding, a lack of hygiene and heating, and unsanitary conditions.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Petrescu alleged that he had been detained in inhuman and degrading conditions in Portugal.

The application was lodged with the European Court of Human Rights on 2 May 2017.

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

Paul Lemmens (Belgium), *President*,
Paulo Pinto de Albuquerque (Portugal),
Dmitry Dedov (Russia),

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.

Alena Poláčková (Slovakia),
 María Elósegui (Spain),
 Erik Wennerström (Sweden),
 Lorraine Schembri Orland (Malta),

and also Stephen Phillips, *Section Registrar*.

Decision of the Court

Article 3 (prohibition of inhuman or degrading treatment)

1. Admissibility

Mr Petrescu had not taken any administrative or judicial steps at national level to complain about his conditions of detention. In consequence, the Government asked the Court to dismiss the application for failure to exhaust domestic remedies.

With regard to the preventive remedies, the Court considered that the domestic law did not provide for any sufficiently accessible and effective remedy to prevent the continuation of the alleged violation or to secure an improvement in Mr Petrescu's conditions of detention, for the following reasons.

Firstly, a request, complaint or report to the prison governor, the Director General of Prison Services or the General Inspectorate of Prison Services was not an effective remedy, in that those bodies did not have the necessary independence to rule in this area, given that they were directly answerable to the prison authorities.

Secondly, the Government claimed that Mr Petrescu could have applied to the administrative courts and to the post-sentencing judge for an order that his conditions of detention be improved. However, they did not submit any evidence that such a remedy would have been effective. Furthermore, in view of the numerous national and international reports indicating a structural problem of prison overcrowding at the relevant time, which continued to affect half of the country's prisons, it appeared that this problem did not affect Mr Petrescu alone. Thus, even if those courts were to have issued a favourable decision, the prison authorities would have had difficulties in implementing it.

Thirdly, the Ombudsman's decisions were not binding. He only issued recommendations and the Government had not shown that those recommendations would have made it possible to secure a rapid improvement in the conditions of detention being complained of.

With regard to the compensatory remedies referred to by the Government, no relevant example was cited.

In consequence, the Court considered that it was not possible to conclude with sufficient certainty that Portuguese law provided Mr Petrescu with a preventive and/or compensatory remedy in respect of his conditions of detention.

2. Merits

During his stay in the Lisbon police, Mr Petrescu was subjected to:

- degrading treatment for 376 non-consecutive days, during which he was held in various multiple-occupancy cells providing a personal space of less than 3 sq. m.;
- inhuman and degrading treatment for 385 non-consecutive days, during which he was held in various cells providing a personal space of between 3 and 4 sq. m. In addition, those cells had no heating and had sanitation areas which were partly separated from rest of the cell by a partition,

which was unacceptable where several prisoners shared a cell. During this period the applicant had had no access to employment, to any educational or cultural activities, or to sport.

- inhuman and degrading treatment for 36 days, during which he had shared a cell with one other prisoner, where the sanitary area was only partly separated from the rest of the room by a chest-height partition.

During his stay in the Pinheiro da Cruz Prison, Mr Petrescu was subjected to inhuman and degrading treatment for 18 days, during which he was held in a cell in which he had only 1.79 sq. m. of personal space and where the sanitary area was again only partly separated from the rest of the room by a chest-height partition.

In consequence, the Court recommended that the Portuguese State envisage the adoption of general measures. Firstly, measures ought to be taken to ensure that prisoners were provided with conditions of detention which were compatible with Article 3 of the Convention. Secondly, a remedy ought to be made available to prevent the continuation of an alleged violation or to enable prisoners to secure an improvement in their conditions of detention.

Just satisfaction (Article 41)

The Court held that Portugal was to pay Mr Petrescu 15,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

Inci Ertekin (tel: + 33 3 90 21 55 30)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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.