

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 40641/22
Leandro Abel AZEVEDO
against Portugal
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 11 July 2024 as a Committee composed of:

Branko Lubarda*, President*,
Anne Louise Bormann,
Sebastian Răduleţu*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 12 August 2022,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr R. Mendes Martins, a lawyer practising in Lisbon.

The applicant's complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Portuguese Government ("the Government").

THE LAW

A. Complaints under Article 3 of the Convention concerning the applicant's detention between 16 and 26 May 2022 in the Porto Prison

The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these complaints concerning a ten days' period of detention at the Porto Prison. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged the inadequate conditions of detention during the indicated period. They offered to pay the applicant the amounts detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case.

The applicant was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. He disagreed with it.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints relating to the inadequate conditions of detention (see, for example, *Petrescu v. Portugal,* no. 23190/17, 3 December 2019).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application in the part covered by the unilateral declaration (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does

not require it to continue the examination of this part of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the case out of the list in the part concerning the inadequate conditions of the applicant's detention, covered by the Government's unilateral declaration.

B. Remaining complaints

The applicant also complained about his conditions of detention during other periods of detention.

The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application must be declared inadmissible and rejected in accordance with Article 35 § 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration in so far as it concerns a ten days' period of detention in the Porto Prison and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in the part covered by the unilateral declaration of the Government in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 5 September 2024.

Viktoriya Maradudina	Branko Lubarda
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 3 of the Convention (inadequate conditions of detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
40641/22 12/08/2022	**Leandro Abel AZEVEDO** 1979	Rodrigo Mendes Martins Lisbon	14/02/2024	22/05/2024	700	250

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.