

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

FIFTH SECTION

CASE OF MESKHIDZE v. GEORGIA

(Application no. 55506/08)

JUDGMENT

STRASBOURG

21 December 2017

This judgment is final but it may be subject to editorial revision.



In the case of Meskhidze v. Georgia,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Síofra O'Leary, *President,*
Nona Tsotsoria,
Lətif Hüseynov, *judges,*

and Anne-Marie Dougin, *Acting Deputy Section Registrar,*

Having deliberated in private on 28 November 2017,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 55506/08) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Georgian national, Mr Rolandi Meskhidze ("the applicant"), on 1 October 2008.

2. The applicant was represented by Ms M. Pkhaladze and Mr G. Zirakishvili, lawyers practising in Tbilisi. The Georgian Government ("the Government") were represented by their successive Agents, most recently Mr B. Dzamashvili, of the Ministry of Justice.

3. The applicant alleged, in particular, that the authorities had failed to provide him with adequate medical care in prison, in violation of Article 3 of the Convention.

4. On 14 May 2009 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1960 and was serving a prison sentence at the time in question. The facts of the case, as submitted by the parties, may be summarised as follows.

A. The applicant's state of health and the treatment available in prison

6. The applicant was arrested on 20 July 2003 and sentenced by the first-instance court on 19 May 2004 to twelve years' imprisonment for murder.

His conviction was upheld on appeal by the Supreme Court of the Autonomous Republic of Adjara on 19 July 2004.

1. Deterioration in the applicant's medical condition in prison

7. According to the available medical file (covering the periods between 30 July-10 September 2005, 25 January - 27 March 2008, and 5 June – 8 September 2008), the first time the applicant was transferred to the prison hospital after his arrest was on 30 July 2005. At that time he was diagnosed with viral hepatitis C, chronic cholecystitis, and radiculitis. The applicant complained of suffering from sleeping disorders and anxiety and was placed in the psychiatric ward of the prison hospital. On 16 August 2005 he was transferred to the infectious ward, where he was treated for his viral hepatitis C. The applicant was discharged from the prison hospital on 10 September 2005.

8. According to the applicant, in October 2007 he had an operation for an ingrowing toenail on his right foot. After the operation the scar became infected and the applicant was sent to the prison hospital on 25 January 2008 on account of his deteriorating health. At that time the applicant's diagnosis was as follows: chronic arterial insufficiency of the lower limbs, arterial occlusion and obliterating arteritis, and subungual panaritium.

9. On 29 January 2008 the applicant had his toenail removed. He spent the post-surgery period under permanent medical supervision in the prison hospital. Although he was provided with painkillers and treated with antibiotics, the applicant, according to the case file, complained every day about severe pain in his right foot. On 25 February 2008 he was seen by an angiosurgeon, who recommended that he undergo a dopplerography of the legs and that his transcutaneous oxygen pressure ("Tc PO2") be measured. The surgeon would decide on the need to amputate the big toe on the applicant's right foot on the basis of these tests.

10. According to a note made by a prison hospital doctor in the applicant's medical file on 25 March 2008, the dopplerography and Tc PO2 test could not be organised in the prison hospital for technical reasons. The doctor noted an improvement in the applicant's general condition and concluded that in any event, and notwithstanding the specialist's recommendation, there was no need for those examinations, given that there were no "absolute indications" that surgery was called for. On 27 March 2008 the applicant was discharged from the prison hospital and sent back to Tbilisi Prison no. 1 with a recommendation that he continue palliative treatment on an outpatient basis.

11. At the request of the applicant, on 5 May 2008 the board of forensic experts of the Ministry of Justice – having examined him – drew up a medical report ("the 5 May 2008 medical report"), which diagnosed the applicant as suffering from the following: arteritis, occlusion of the arteries in the right shin, stenosis of the arteries in the left shin, artery deficiency in

the right lower limb (at stage IV of the disease), necrosis of tissue in the right big toe, cardiac ischaemia, second-degree angina pectoris, second-degree arterial hypertension, second-degree cardiac insufficiency, and low-activity chronic hepatitis C. The experts concluded that from a cardiological point of view the applicant's condition was potentially serious. As for his vascular condition, the main blood vessels in both of his legs were damaged and his condition was serious. They recommended that he be placed in a specialist cardiology clinic and have his toe amputated.

12. On 20 May 2008 the applicant's lawyers complained to the Director of the Prisons Department of the Ministry of Justice ("the Prisons Department") that their client, who had been in the prison hospital since 25 January 2008, had been sent to Tbilisi Prison No. 1, despite the seriousness of his state of health, and that the treatment in that hospital had not produced any results. They complained that the applicant's condition had deteriorated there. The lawyers requested that the applicant be taken to hospital on the grounds that his life was in danger. On the same day they sent the same request to the director and the head doctor at the medical unit of Tbilisi Prison No. 1.

13. On 27 May 2008 the head of the welfare unit of the Prisons Department referred the lawyers' request to the prison governor and a group of qualified medical experts "for an opinion". He observed that, in accordance with ministerial order no. 717, patients were hospitalised on the orders of the prison governor, following a report by the head doctor of the prison's medical unit.

14. Following that letter, on 3 June 2008 one of the applicant's lawyers contacted the prison governor reminding him of the terms of ministerial order no. 717 and asking him what the response of the head doctor had been and enquiring as to when the applicant would be hospitalised.

15. On 9 June 2008 the Prisons Department informed the lawyers that the applicant had been placed in the prison hospital on 5 June 2008.

16. According to the daily notes made in his medical file, the applicant continued to suffer from pain in the right foot. It can be seen from the contents of the medical file that his right foot was treated with antiseptic products and bandaged daily. During that period the applicant was examined by a vascular specialist twice: on 11 June and on 31 July 2008. On 11 June 2008 the vascular specialist recommended that the bandage be changed regularly and the toe treated with antiseptic products. He also prescribed Alprostapint infusions. On 31 July 2008 the vascular specialist recommended a Tc PO2 test in order to assess the possibility of amputating the toe, and prescribed continuing palliative treatment. It appears from the case file that the relevant drugs were administered to the applicant by his wife and other family members.

17. On 7 August 2008 the applicant underwent a Tc PO2 test at a specialist hospital. On the basis of the results of the test the examining

doctor concluded that the microcirculation in the lower limbs of the applicant (particularly in the right foot) was very low. In his view, surgical intervention was not appropriate because the particularly low level of oxygen in the right foot would have hampered the healing of the resulting wound.

18. On 8 September 2008 the applicant was discharged from the prison hospital because of the appeal court's decision to suspend his prison sentence (see paragraph 28 below).

2. Proceedings in respect of the suspension of the prison sentence on health grounds

19. On the basis of the 5 May 2008 medical report (see paragraph 11 above), and in view of the fact that his treatment at the prison hospital was producing no results, on 14 May 2008 the applicant applied to the Tbilisi City Court for his sentence to be suspended on health grounds (under Article 607 § 1 (a) of the Code of Criminal Procedure – "the CCP"). A representative of the Prisons Department opposed the application on the grounds that the prison hospital had "a medical service capable of treating the applicant" and that "if necessary he [would] be transferred to a specialist clinic". One of the experts who had produced the above-mentioned report confirmed to the court judge that the applicant was seriously ill. However, as he had no knowledge of the medical facilities at the prison hospital, he said he could not judge whether it was appropriate to keep the applicant there. He also confirmed that the applicant's right big toe had to be amputated.

20. On 11 June 2008 the Tbilisi City Court dismissed the applicant's request, on the grounds that the prison hospital had a medical service capable of providing the necessary treatment and that the applicant, who was being looked after by specialist doctors, would be transferred to a specialist clinic if necessary.

21. On 18 June 2008 the applicant's lawyer submitted to the court his comments on the record of the hearing of 11 June 2008. The record of the hearing, according to those comments, did not refer to the expert's opinion in respect of the risk to the applicant's life. The expert had said that the applicant's gangrene, which was now at the fourth (and last) stage, could cause septicemia and death if not properly treated. Regarding the applicant's heart condition, the expert had said that the applicant needed treatment in a specialist clinic to prevent sudden death. On 19 June 2008 the court granted that request and ordered that the record of hearing be amended by adding the expert's comments.

22. The applicant appealed against the decision of 11 June 2008, pointing out that, according to the medical experts who had examined him, the treatment at the prison hospital had produced no results and that, if he was not properly treated, the question of the amputation of various parts of

his right lower limb could arise. The applicant's lawyers pointed out that prisoners frequently died as a result of a lack of treatment at the prison hospital. They also complained about the Prisons Department having joined the trial as a party to the proceedings, which was in breach of Article 617 § 4 of the CCP. In their view, a representative of the Prisons Department was not in a position to assess the danger that detention might pose to the life of the applicant. Subsequently, the lawyers requested that the applicant's doctor and the doctor from the specialist hospital who had treated the applicant on 7 August 2008 be heard as witnesses (see paragraph 17 above). At the examination in the specialist hospital in question, apart from the findings of the above-mentioned expert report, Buerger's disease of the lower limbs had also been diagnosed.

23. At a hearing before the Court of Appeal on 4 September 2008 the applicant's lawyers requested that the representative of the Prisons Department be debarred from joining the proceedings as a party, in accordance with Article 617 § 4 of the CCP. The Court of Appeal allowed that request but authorised the representative in question to attend the hearing in order to reply to any questions. It also decided to call the prison hospital surgeon, the vascular specialist (see paragraph 17 above), and the forensic expert (see paragraph 11 above) as witnesses.

24. At the next hearing on 8 September 2008 the forensic expert repeated that the applicant's state of health was serious, and that Article 7 § 2 of order no. 72/N (issued by the Health Minister) concerning the early termination of prison sentences on health grounds was indisputably applicable. He added that necrosis of the tissue of the lower limb had set in and was progressively affecting the limb from the bottom up. If that were to continue, the applicant might develop septicemia and die. In his view, it was impossible to cure the applicant completely.

25. The applicant's doctor – a surgeon who was a member of the prison hospital's permanent staff – also gave evidence before the Court of Appeal, explaining the diagnosis and confirming that his patient was seriously ill, with the arterial disease having reached the fourth and final stage. He said that he had seen the applicant in December 2007 and also in May 2008 and that no serious necrosis had been observed at that time. He further explained that at that stage of the disease the treatment usually prescribed was either palliative or surgical. The applicant was being given palliative treatment with medicines (antioxidants, protective drugs, sedatives). An operation was not recommended because it might make his condition worse. The likelihood of the scar healing was nil. The doctor was gradually removing the necrosed tissue in the right foot. The doctor also confirmed that the applicant's illness was chronic, progressive and that he needed constant medical treatment. He added that he could not be cured at the prison hospital but that there was a clinic outside the prison that could treat this kind of patient. In answer to a question from the judge, the doctor said that

the applicant had been hospitalised twice after his operation and that at the relevant time the necrosis had not reached such an advanced stage. At that time the prison hospital doctors had done all they could to halt the development of the necrosis but without much success. If the situation continued, the applicant might have to have his entire right leg amputated.

26. The vascular specialist – a doctor at the prison hospital – said that he had examined the applicant in December 2007 and found that the gangrene had already affected the big toe of the right foot. This had then quickly spread, despite the treatment administered. Shortly before the hearing the applicant had been prevented from lying down and had been made to stay in a sitting position. His state of health was worsening daily. The results of the Tc PO2 test had shown that the oxygen tension in the right foot stood at level 2 in the lying-down position and at level 21 in the sitting position (the normal level being 60-70; an indicator of 30 was necessary if the wound could be expected to heal properly). Accordingly, amputation was impossible. The vascular specialist said that the prison hospital was complying with his orders but that there was no specialist unit. In his view, the applicant's lower left limb was also damaged, but not yet affected by gangrene. At the time it was a question of saving the applicant's life and subsequently considering whether to amputate the right leg.

27. In his final address the applicant's lawyer drew the Court of Appeal's attention to the fact that, despite the presence of gangrene as early as December 2007, the applicant had been sent to Prison No. 1 and left there untreated. Given that, according to the doctors, the applicant could not be cured, the lawyer requested that her client be dispensed from having to serve the remainder of his prison sentence (under Article 608 § 1 of the CCP).

28. In a judgment of 8 September 2008 the Court of Appeal ordered that the applicant's prison sentence be suspended pending a substantial improvement in his state of health, provided that he undergo a medical examination every six months and provide the court with the results thereof. The applicant was immediately released.

B. The applicant's medical condition after his release

29. According to a medical report of 6 March 2009, the applicant suffered from cardiac ischaemia, second-degree angina pectoris, third-degree hypertension and second-degree heart failure. From a cardiological point of view, his heart condition remained serious. With regard to his arteries, the applicant suffered from Buerger's disease, occlusion of the arteries in the right tibia, stenosis of the arteries in the left tibia, chronic arterial deficiency in the right lower limb at the fourth stage of the disease and gangrene of the tissue in the right big toe. The gangrene was

still described as progressive. The experts concluded that the applicant required cardiological and angiological treatment in a specialist institution.

30. Over May and June 2011 the applicant underwent another forensic examination. It appeared from the report of 21 June 2011 that on 6 February 2011 the applicant had had the lower part of his right leg amputated. At the same time he was diagnosed with gangrene on the big toe of the left foot. While confirming his diagnosis from a cardiological point of view as potentially serious the four experts involved in the examination also concluded that the applicant's angiological condition had deteriorated as a result of ischemia. Thus, from the angiological point of view he was categorised as a seriously ill patient.

II. RELEVANT DOMESTIC LAW AND PRACTICE

31. The relevant legal provisions concerning the protection of prisoners' rights in the custodial institutions of Georgia at the material time are set out in the following judgments: *Goginashvili v. Georgia* (no. 47729/08, §§ 32-35, 4 October 2011), and *Makharadze and Sikharulidze v. Georgia* (no. 35254/07, §§ 40-43, 22 November 2011).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

32. The applicant complained of inadequate medical care in prison. He relied on Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

33. In their observations the Government submitted that the applicant's application was based on untrue facts. In particular, they claimed that the applicant had submitted false information regarding (i) the date on which his right foot had allegedly been operated on, and (ii) the dates on which he had been staying in Tbilisi Prison No. 1. The Government challenged in particular the applicant's assertion that his alleged operation in October 2007 had caused the aggravation of his arterial pathology. Referring to the Court's decision in the case of *Jian v. Romania* (no. 46640/99 (dec.) 30 March 2004), the Government asked the Court to reject the applicant's application as amounting to an abuse of the right of individual application under Article 35 § 3 (a) of the Convention. In the alternative, they submitted

that the applicant had failed to exhaust the available domestic remedies, including that deriving from Article 10 of the Law on Patients' Rights.

34. The applicant did not comment on the Government's inadmissibility pleas.

35. The Court reiterates that, except in extraordinary cases, an application may only be rejected as abusive if it was knowingly based on untrue facts (see, *inter alia*, *Keretchashvili v. Georgia* (dec.), no. 5667/02, 2 May 2006, and *Pirtskhalaishvili v. Georgia* (dec.), no. 44328/05, 29 April 2010). Incomplete and therefore misleading information may also amount to abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information. However, any deliberate attempt to mislead the Court must be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references therein).

36. The Court notes at the outset that there are indeed certain discrepancies in the dates between which the applicant allegedly spent his sentence in various prisons. It also appears from the case file that his toenail was removed on 29 January 2008 (see paragraph 9 above), but there is no information concerning the surgery that he allegedly underwent in October 2007. The Court cannot, however, overlook the fact that the Government failed, despite being explicitly requested to do so, to provide the Court with the applicant's medical file recording the treatment he was given between September 2005 and January 2008 (see paragraph 7 above). In any event, what is at stake in the Court's view in the current case is not so much the purported date of a single surgical intervention, but the alleged inadequacy of the medical treatment provided to the applicant after the deterioration in his medical condition in (at the latest) January 2008. It thus follows that the rather incomplete information submitted by the applicant to the Court cannot be regarded as amounting to an abuse of the right of application.

37. As to the Government's non-exhaustion plea, according to the case-file the relevant prison authorities were well aware of the applicant's serious medical condition (see paragraphs 7-9 above). Having regard to the Court's relevant case-law (see *Goginashvili v. Georgia*, no. 47729/08, §§ 51-60, 4 October 2011; see also *Makharadze and Sikharulidze v. Georgia*, no. 35254/07, §§ 54-55, 22 November 2011), the Court dismisses the Government's non-exhaustion plea.

38. The Court further finds that the complaint under Article 3 of the Convention is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and that it is not inadmissible on any other grounds. The complaint must therefore be declared admissible.

B. Merits

1. The parties' observations

39. The applicant maintained that his condition had substantially deteriorated in prison. The relevant prison authorities, according to him, had acknowledged their inability to provide him with the required medical treatment but had nevertheless for a long period of time refused him the opportunity of receiving the required treatment outside prison.

40. The Government, for their part, maintained that in view of the nature and seriousness of the various diseases suffered by the applicant it was obvious that he had developed them before entering the prison system. They were thus not responsible *per se* for his serious medical condition. As regards the toe infection, they dismissed as untrue the applicant's statement that he had undergone surgery in October 2007, following which the inflammation process had started. In connection with the 29 January 2008 surgery they maintained that it had gone smoothly, that no major complications had been observed and that the applicant had been discharged in March 2008 in an improved condition. Between 27 March and 5 June 2008 the applicant, according to the Government, had remained under regular medical supervision in Tbilisi Prison No.1. The Government failed to submit the applicant's medical file in respect of the period of time in question; however, they asserted that the applicant had continued to receive treatment there, and that such treatment had included consultations with an angiologist.

2. The Court's assessment

(a) General principles

41. The relevant general principles concerning the adequacy of medical treatment in prisons were summarised by the Court in the cases of *Blokhin v. Russia* ([GC], no. 47152/06, §§ 135-140, ECHR 2016, with further references therein); see also *Goginashvili* (cited above, §§ 69-70); *Irakli Mindadze v. Georgia* (no. 17012/09, §§ 39-40, 11 December 2012, and *Jeladze v. Georgia* (no. 1871/08, §§ 41-42, 18 December 2012).

(b) Application of the principles in the current case

42. At the outset the Court finds it appropriate to define the scope of the applicant's complaint under Article 3 of the Convention. The applicant in his application form did not complain as such about the inadequacy of the treatment administered to him in prison prior to October 2007. Nor did he allege that he had developed the various medical conditions in prison. The focus of his application was rather the fact that his detention in prison in the absence of adequate medical treatment for the gangrene which he allegedly developed after October 2007 was detrimental to his health. The Court will

thus assess the adequacy of the treatment available to the applicant in prison in the period between October 2007 and September 2008.

43. As already noted above, in view of the absence of the medical file of the applicant for the relevant period of time, there is no information about the purported medical intervention which the applicant claimed to have undergone on his toe in October 2007 (see paragraph 8 above). The Court, however, does not find it necessary to establish the exact triggering moment of the alleged condition of the applicant for the following reason: in the course of the domestic proceedings both of the doctors treating him confirmed that in December 2007 the applicant had already manifested the first signs of deterioration in his right big toe (see paragraphs 25-26 above). The Court notes that according to the prison hospital doctor "no serious necrosis" had been observed at that time (see paragraph 25 above), while the specialist doctor concluded that "the gangrene had already affected the big toe of the right foot" (see paragraph 26 above). The Court considers appropriate to attach particular weight to the opinion of a specialist. In any event, it is obvious that already in December 2007 the relevant authorities were aware of the applicant's possible diagnosis and were under an obligation to subject him to the appropriate medical tests in order to decide on a treatment plan for him (see *Yefimova v. Russia*, no. 39786/09, § 236, 19 February 2013). But the authorities were slow to act, as it was only on 25 January 2008 that the applicant was transferred to the prison hospital with increasing pain in his toe. This delay of more than a month constituted, in the Court's view, a serious failure, given that gangrene is a medical condition that is potentially life-threatening and requires immediate treatment (see paragraphs 21, 24 and 26 above).

44. After his placement in the prison hospital the applicant was diagnosed with subungual panaritium, and on 29 January 2008 his toe was operated on. However, the pain persisted, as can be seen from the material in the case file (see paragraph 9 above). On 25 February 2008 the applicant was seen by a specialist, who recommended that he undergo a dopplerography and a Tc PO2 test (see paragraph 9 above). Already at this point the specialist noted that depending on the results of the examination the option of amputating the toe on the right foot of the applicant should be considered. One month later, on 27 March 2008, a prison hospital doctor, without following the specialist advice – that is to say without arranging for the appropriate examinations of the applicant – simply concluded that there were no "absolute indications" that he should undergo surgery (see paragraph 10 above). The applicant was thus discharged from the prison hospital in a so-called "improved condition", without any medical evidence for that conclusion.

45. The applicant spent the subsequent period (of a little over two months) in Tbilisi Prison No. 1. The Government claimed that he was kept there under permanent medical supervision. But they failed to submit to the

Court the applicant's medical file accounting for that period of time, in the face of which failure the Court finds it difficult to accept their submission (see *Irakli Mindadze*, cited above, §§ 44 and 47). Given the seriousness of the applicant's diagnosis, the relevant prison authorities were expected to keep track of his health on a regular (if not daily) basis and to provide him with the required treatment. They could not have done so without keeping a proper medical record of the treatment provided.

46. As for the period between 5 June and 8 September 2008, while it is true that the applicant spent these three months in the prison hospital, at that stage a specialist doctor had already explicitly concluded that the applicant's life was under threat (see paragraphs 11, 19, and 21 above). While that doctor could not assess the quality of the treatment provided to the applicant in the prison hospital, he emphasised that the applicant was in need of specialist treatment, including the amputation of his toe. That medical recommendation was also disregarded by the prison hospital staff.

47. Without speculating as to whether the applicant could have avoided the amputation of his right lower limb and the development of gangrene on his left foot (see paragraph 30 above) were he to receive prompt and appropriate medical treatment in a specialist hospital, the Court is nevertheless of the view that the prison authorities were negligent with respect to their treatment of the applicant's serious condition. In the nine-month period preceding the applicant's release from prison, they failed to have his condition diagnosed promptly (see paragraph 43 above). Subsequently, they did not follow the specialist's recommendations, left the applicant without the required examinations and discharged him from the prison hospital (see paragraph 44 above). As for the following period of a little over two months, in the absence of any evidence, the Court is not prepared to accept that the applicant was being provided with regular medical supervision and treatment (see paragraph 45 above). This apparent failure on the part of the authorities is particularly regretful given that at that stage in the progression of the applicant's disease there were already consistent signs of a real threat to his leg and life. The combination of the above-mentioned delays and omissions in the medical treatment that the applicant received in prison leads the Court to the finding that there was a violation of Article 3 of the Convention on account of the inadequate medical treatment rendered in prison for the applicant's gangrene.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

49. The applicant claimed about 1,300 euros (EUR) in respect of pecuniary damage incurred on account of medical care costs, including those incurred in respect of several forensic medical examinations that he had organised and paid for himself. He further requested the Court to award him an unspecified amount in respect of the psychological damage he had suffered in prison and a further amount for the treatment abroad he would have to undergo.

50. The Government contested the applicant's claims, stressing that the latter had been suffering from all of his diseases before he had entered the prison system. They further submitted that, under the relevant Georgian legislation, they were not responsible for the medical treatment of the applicant after the suspension of his prison sentence, be it in Georgia or abroad. The Government also emphasised that the invoices submitted by the applicant accounted for only about EUR 200 of the amount claimed. Furthermore, the part which concerned medicines bought after 8 September 2008 – that is to say after the applicant's release from prison – was irrelevant. As regards non-pecuniary damage, the Government claimed that the request was manifestly ill-founded, given the fact that the applicant had neither specified the amount requested nor elaborated on the grounds of the request.

51. The Court finds that there is a direct causal link between the medical expenses incurred by the applicant while in prison and the violation of Article 3 found above. It thus awards the applicant, in view of the relevant financial documents, EUR 150 in respect of pecuniary damage. It also finds that the applicant must have suffered distress and anguish resulting from the shortcomings in his medical treatment. Ruling on an equitable basis and taking all the circumstances of the case into account, it awards the applicant EUR 4,500 in respect of non-pecuniary damage.

B. Costs and expenses

52. In the absence of a claim for costs and expenses, the Court considers that there is no call to make any award under this head.

C. Default interest

53. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the inadequate medical treatment provided to the applicant in prison;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 150 (one hundred fifty euros), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 21 December 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Anne-Marie Dougin	Síofra O'Leary
Acting Deputy Registrar	President