

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

SECOND SECTION

CASE OF PRPIĆ v. CROATIA

(Application no. 27712/19)

JUDGMENT

STRASBOURG

9 February 2023

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



In the case of Prpić v. Croatia,

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

Frédéric Krenc*, President*,
Diana Sârcu,
Davor Derenčinović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 19 January 2023,

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

PROCEDURE

1. The case originated in an application against Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 14 May 2019.

2. The applicant was represented by Ms L. Horvat, a lawyer practising in Zagreb.

3. The Croatian Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the inadequate conditions of detention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicant complained of the inadequate detention conditions. She 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."

7. The Court notes that the applicant was kept in detention in poor conditions. The details of her detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, ECHR 2016). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described are "degrading" from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings

(see *Muršić*, cited above, §§ 122-41, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-59, 10 January 2012).

8. In the leading cases of *Muršić*, cited above, §§ 69-73 and 91-173, and *Ulemek v. Croatia,* no. 21613/16, §§ 71-120 and 126-46, 31 October 2019, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints.

10. In particular, the Government submitted that during her stay in the Požega State Prison the applicant had only been spending between seven and nine hours in her cell during the night whereas the rest of the time she had either worked or been able to move freely within her ward. In addition, she had been allowed to spend two hours per day outdoors. The Government also pointed out that the Court had previously found no violation of Article 3 of the Convention in similar circumstances (see *Dolenec v. Croatia*, no. 25282/06, §§ 133-36, 26 November 2009).

11. The Court notes that in the period between 12 August 2012 and 9 February 2013 the applicant disposed of less than 3 sq. m of floor surface (see the appended table). It further reiterates its finding in *Muršić*, a Grand Chamber judgment subsequent to *Dolenec* (cited above), that a strong presumption of a violation of Article 3 arises where the personal space available to a detainee falls below 3 sq. m of floor surface. That presumption can only be rebutted if certain factors are cumulatively met, *inter alia*, if the reductions in the required minimum personal space of 3 sq. m are short, occasional and minor (see *Muršić*, cited above, §§ 137-38). However, in the present case during the period in question, which was not short, the applicant continuously disposed of less than 3 sq. m. of personal space.

12. In the period between 14 April 2011 and 11 August 2012 the personal space available to the applicant was between 3 and 4 sq. m. (see the appended table). The Court reiterates that in those circumstances the space factor remains a weighty factor in the assessment of the adequacy of conditions of detention (see *Muršić*, cited above, §§ 139). In that period the applicant and other inmates were not allowed to spend time in their cells during the day, save for the period between 4 and 6 p.m. when they could either rest in their cells or spend time outdoors. The rest of the day the applicant had to spend in a hallway measuring 69.21 sq. m. or TV room of 67.47 sq. m. with around 50 other inmates, which means that the personal space available to her in those common areas was less than 3 sq. m. Even though from August 2011 the applicant worked four hours per day, the Court finds that this was not sufficient to compensate for the serious lack of space, especially having regard to other inappropriate physical conditions of her detention (see the appended table).

13. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's conditions of detention were inadequate.

14. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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."

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Muršić,* cited above, § 181, and *Ulemek,* cited above, § 162), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 3 of the Convention concerning the inadequate conditions of detention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table, at the rate applicable at the date of settlement;
   (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.

Done in English, and notified in writing on 9 February 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Frédéric Krenc
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	Facility Start and end date Duration	Sq. m per inmate	Specific grievances	Amount awarded for non-pecuniary damage (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
27712/19 14/05/2019	**Arlen PRPIĆ** 1969	Horvat Lidija Zagreb	Zagreb Prison 10/02/2011 to 13/04/2011 2 months and 4 days	between 3.26 and 3.92 m²	overcrowding, lack of privacy for toilet, lack of fresh air, lack or inadequate furniture, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, no or restricted access to shower, lack of toiletries	8,300	250
			Požega State Prison 14/04/2011 to 09/02/2013 1 year, 9 months and 27 days	3.56 m² (14/04/2011-11/08/2012) 2.95 m² (12/08/2012-9/02/2013)	overcrowding, inadequate temperature, lack of or inadequate hygienic facilities, lack of fresh air, no or restricted access to warm water, no or restricted access to shower, lack of toiletries, lack of or insufficient physical exercise in fresh air		

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