

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

FIRST SECTION

CASE OF ŠARAC v. CROATIA

(Application no. 38309/21)

JUDGMENT

STRASBOURG

11 June 2026

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



In the case of Šarac v. Croatia,

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

Raffaele Sabato*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 21 May 2026,

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 21 July 2021.

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 was arrested on drug-trafficking charges on 13 July 2019. On 14 May 2020 he was indicted for trafficking, together with seven other persons, 600 kilos of cocaine from Central and South America to several European countries, as well as for unlawful possession of weapons. Six of the applicant's co-accused pleaded guilty. The indictment against the applicant was confirmed on 12 April 2022, and the case was referred to trial. The criminal proceedings against him are currently pending.

6. Starting from 14 July 2019, the domestic authorities ordered and periodically extended the applicant's pre-trial detention, initially on the risks of collusion and reoffending and, after he had been indicted, solely on the risk of reoffending. The applicant was detained in Zagreb Prison. He was released on 28 December 2021.

7. Before the Court the applicant principally complained of the inadequate conditions of his detention. He also raised other complaints under the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

A. As regards the periods of the applicant's detention indicated in the appended table

8. The applicant complained of the inadequate conditions of his detention during the periods indicated in the appended table. He relied on Article 3 of the Convention.

9. 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).

10. The details of the applicant's detention are indicated in the appended table. 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.

11. 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.

12. In particular, the Government submitted that the applicant, after having lodged his application with the Court on 21 July 2021, did not complain about the inadequate conditions of detention in the remaining period. They also maintained that, in his application, he only complained about the fact that he had less than 3 sq. m of personal space at his disposal. Lastly, they argued that the periods in which the applicant had disposed of less than 3 sq. m of personal space were short and occasional, that he had been allowed outdoors for two hours every day, and that the remaining conditions in the Zagreb Prison were appropriate.

13. The Court firstly observes that, after having received on 5 April 2022 the Constitutional Court's decision of 9 March 2022, in which that court had examined the conditions of detention during the entire period of the applicant's detention, on 27 April 2022 the applicant extended his complaints before the Court to the entire period thereof, including in the periods where he had disposed of more than 3 sq. m of personal space.

14. The Court reiterates its finding in *Muršić,* 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 be rebutted only 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, the periods in which the applicant in the present case disposed of less than 3 sq. m were neither short nor occasional (see the appended table).

15. The Court further observes that during several periods of detention, the applicant disposed of between 3 and 4 sq. m of personal space (see the appended table). Moreover, according to the Government's account, in the periods between 14 July 2019 and 6 February 2020, and between 11 and 13 February 2020, he disposed of between 3.9 and 4.88 sq. m of personal space. Having regard to the fact that, notwithstanding their duty to provide a detailed account of the applicant's conditions of detention (see *Muršić*, cited above, § 128), the Government did not clearly indicate for how long during those periods he had actually disposed of more than 4 sq. m of personal space, the Court considers that the personal space available to the applicant should likewise be regarded as having fallen below 4 sq. m in the entirety of those periods. Reiterating that in those circumstances the space factor remains a weighty element in the assessment of the adequacy of conditions of detention (see *Muršić*, cited above, § 139), the Court furthermore notes that the same conditions of detention in Zagreb Prison pertaining in the applicant's case were already examined in *Ulemek*, cited above, §§ 127-29, and found to be in violation of Article 3 of the Convention.

16. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's conditions of detention during the period under consideration (see appended table) were inadequate.

17. This part of the application is therefore admissible and discloses a breach of Article 3 of the Convention.

B. Remaining complaints concerning the conditions of the applicant's detention

18. In so far as the applicant's complaint under Article 3 of the Convention concerns the conditions of detention in Zagreb Prison in the remaining period of his pre-trial detention, that is, between 6 and 11 February 2020, 13 February 2020 and 9 June 2021, 29 June and 5 July 2021, and 13 September and 28 December 2021, the Court considers that, in the light of all the material in its possession, this part of his application does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

19. It follows that this part of the application is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 thereof.

II. REMAINING COMPLAINTS

A. Complaint under Article 5 § 3 of the Convention concerning the length of the applicant's pre-trial detention

20. The applicant complained that his continued pre-trial detention was not based on relevant and sufficient reasons, that it was excessively lengthy, and that the domestic authorities had failed to examine the possibility of applying less restrictive measures. He relied on Article 5 §§ 1, 3 and 4, and Article 6 of the Convention.

21. Being master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), and having regard to its case-law (see, for example, *Šoš v. Croatia*, no. 26211/13, § 73, 1 December 2015), the Court considers that the applicant's complaints fall to be examined under Article 5 § 3 of the Convention. Furthermore, the Court does not find it necessary to examine the Government's preliminary objections, as the present complaint is in any event inadmissible for the following reasons

22. The Court considers that the domestic courts thoroughly assessed all the relevant factors and based their decisions on the specific circumstances of the case. They relied on reasons which, according to the Court's case-law, may justify pre-trial detention (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 88, 5 July 2016), as well as on other reasons which are relevant for the assessment of the reasonableness of the length of detention, such as the particular complexity of the present case, which concerned organised crime and the criminal activities of international character; the nature of the charges against the applicant; and his alleged significant role in the criminal organisation (see *Podeschi v. San Marino*, no. 66357/14, §§ 147-49, 13 April 2017, and *Lisovskij v. Lithuania*, no. 36249/14, § 76, 2 May 2017; and compare *Šoš v. Croatia*, no. 26211/13, §§ 95-96, 1 December 2015). The Court is satisfied that the domestic courts did not use "general and abstract" arguments for the applicant's continued detention, and that their reasons were relevant and sufficient.

23. The Court also notes that, despite the complexity of the case, the investigation was completed in less than a year and the applicant was brought to trial less than two years after the charges against him had been issued, at which point he had already been released from pre-trial detention (see paragraphs 5 and 6 above and compare *Lisovskij*, cited above, § 78, and *Podeschi*, cited above, § 154).

24. Against the above background, the Court finds that the applicant's detention on remand was based on relevant and sufficient reasons, with due observance of the requirement of "special diligence" in the proceedings.

25. It follows that this part of the application is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 thereof.

B. Other complaints

26. The applicant also raised other complaints under various Articles of the Convention.

27. The Court has examined the application and considers that, in the light of all the material in its possession, these complaints do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

28. It follows that this part of the application is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 thereof.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

29. The applicant claimed 70,000 euros (EUR) in respect of non-pecuniary damage, and EUR 42,520 for the costs and expenses: 243,437.50 Croatian kunas (HRK; i.e., EUR 32,310) for the costs incurred before the domestic courts, and HRK 76,240 (i.e., EUR 10,119) in respect of costs and expenses incurred before the Court. The Government contested these claims.

30. The Court considers it reasonable to award the applicant EUR 5,700 in respect of non-pecuniary damage, plus any tax that may be chargeable to him.

31. Having regard to the documents in its possession, the Court considers it reasonable to award the applicant EUR 1,080 for costs incurred before the domestic courts and the Court, plus any tax that may be chargeable to him.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the inadequate conditions of detention in the periods indicated in the appended table admissible, and the remainder of the application inadmissible;

2. *Holds* that that there has been a violation of Article 3 of the Convention concerning the conditions of the applicant's detention in the periods indicated in the appended table;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:

(i) EUR 5,700 (five thousand and seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) EUR 1,080 (one thousand and eighty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(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 11 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Raffaele Sabato 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	Facility Start and end date Duration	Sq. m per inmate	Specific grievances
38309/21 21/07/2021	**Pero ŠARAC** 1972	Zagreb Prison 14/07/2019 to 06/02/2020 6 months and 24 days 11/02/2020 to 13/02/2020 3 days 09/06/2021 to 29/06/2021 21 days 05/07/2021 to 23/07/2021 19 days 23/07/2021 to 07/08/2021 16 days 07/08/2021 to 26/08/2021 20 days	 3.9 - 4.88 m² 3.9 - 4.88 m² 2.8 m² 2.8 m² 3.2 m² 2.8 m²	inadequate temperature, lack of fresh air, lack of or inadequate hygienic facilities, lack of or insufficient natural light, lack of privacy for toilet, overcrowding

Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration	Sq. m per inmate	Specific grievances
		26/08/2021 to 29/08/2021 4 days 29/08/2021 to 13/09/2021 16 days	3.2 - 3.9 m² 2.8 m²	