

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

FOURTH SECTION

DECISION

Application no. 19157/22
Leland Patrick HARPER against Portugal
and 7 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 18 April 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 applications lodged on the various dates indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants were represented by Ms. Marta Bulhosa, a lawyer practising in Lisbon, and Mr. V. Carreto, a lawyer practising in Torres Vedras.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Portuguese Government ("the Government"). In applications nos. 23373/22, 28503/22, 56826/22, 56831/22, 56833/22, 56835/22, 56837/22, complaints based on the same facts were also communicated under Article 13 of the Convention.

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the inadequate conditions of detention. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications 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 cases.

The applicants were sent the terms of the Government's unilateral declarations several weeks before the date of this decision. They disagreed with the terms of the declarations, except for the first applicant (application no. 19157/22) who did not reply.

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 applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases 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 declarations 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 applications in the part covered by the unilateral declarations of the Government (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 the applications in that part (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications 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 cases out of the list in the part concerning inadequate conditions of the applicants' detention, as covered by the Government's unilateral declarations.

In so far as the applicants referred to Article 13 of the Convention, the Court, in the light of its findings above, does not consider it necessary to examine separately that complaint.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in the part covered by the Government's declarations;

Decides that there is no need to examine the complaints under Article 13 of the Convention.

Done in English and notified in writing on 16 May 2024.

Viktoriya Maradudina	Branko Lubarda
Acting Deputy Registrar	President

APPENDIX

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

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
1.	19157/22 13/04/2022	**Leland Patrick HARPER** 1961	Marta Bulhosa Lisbon	10/08/2023	1,800	250
2.	23373/22 04/05/2022	**David Manuel CAMPOS DA SILVA** 1961	Vítor Carreto Torres Vedras	28/07/2023	3,500	250
3.	28503/22 23/05/2022	**Armando João MARINHO MENDES** 1972	Vítor Carreto Torres Vedras	28/07/2023	6,900	250
4.	56826/22 30/11/2022	**Jorge Manuel ROCHA DOS SANTOS** 1985	Vítor Carreto Torres Vedras	28/07/2023	6,700	250
5.	56831/22 30/11/2022	**Giovane ALVES DA SILVA** 1994	Vítor Carreto Torres Vedras	28/07/2023	6,800	250
6.	56833/22 30/11/2022	**Fábio Alexandre MENDES DA VEIGA** 1989	Vítor Carreto Torres Vedras	28/07/2023	11,000	250
7.	56835/22 30/11/2022	**Mauro Azevedo PEREIRA BASTOS** 1989	Vítor Carreto Torres Vedras	28/07/2023	6,700	250
8.	56837/22 30/11/2022	**João Francisco COSTA ESTEVES VARANDA SANTOS** 1996	Vítor Carreto Torres Vedras	28/07/2023	6,800	250

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