

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

THIRD SECTION

DECISION

Application no. 21600/05
Viktor ROZSA
against Romania

The European Court of Human Rights, sitting on 2 October 2012 as a Chamber composed of:

Josep Casadevall, *President,*
Egbert Myjer,
Alvina Gyulumyan,
Ján Šikuta,
Luis López Guerra,
Nona Tsotsoria,
Kristina Pardalos, *judges,*

and Santiago Quesada, *Section Registrar*,

Having regard to the above application lodged on 13 May 2005,

Having regard to the decision taken by the President of the Chamber to appoint Mrs Kristina Pardalos to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 1 of the Rules of Court), as Mr Corneliu Bîrsan, the judge elected in respect of Romania, had withdrawn from the case (Rule 28 of the Rules of Court),

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Viktor Rozsa, is a Romanian national who was born in 1963 and lives in Târgu-Mureş.

2. The Romanian Government ("the Government") were represented by their Agent, Mr Răzvan-Horaţiu Radu, from the Ministry of Foreign Affairs.

A. The circumstances of the case

1. Alleged ill-treatment by police officers and lack of an effective investigation

3. On 11 May 2004 the applicant was arrested on suspicion of theft. He was later sentenced to three years' imprisonment for the said offence.

4. On the same day the applicant was taken to a cell at Târgu-Mureş police station, where he was detained for twenty-nine days. He alleged that, before, while and after being taken to the police station that day, he was repeatedly hit by the police officers accompanying him because he was drunk and refused to answer their questions until a lawyer and a prosecutor were present. Consequently, he asked to be taken to the local Institute of Forensic Medicine to be examined by a forensic doctor.

5. On 11 May 2004 the applicant was examined by the Târgu-Mureş police detention centre's doctor. A medical report produced the same day stated that the applicant had bruises and contusions on his face, a deformed nasal pyramid and had suffered thoracic trauma as a result of aggression. On the same date he was also examined at the Târgu-Mureş County Hospital by a cardiologist, who recorded *inter alia* in a further medical report of that date that the applicant had suffered cranio-facial injuries.

6. On 14 May 2004 the applicant was taken to the Târgu-Mureş Institute of Forensic Medicine and was examined by a forensic specialist. A report produced on the same date stated that the applicant's face and body bore several bruises and abrasions and that the injuries could have been caused on 11 May 2004 as a result of direct hitting with or against hard objects. The report also stated that the injuries would require seven to eight days of medical care in order to heal.

7. On 14 May 2004 the applicant brought criminal proceedings with civil claims for abusive conduct and unlawful arrest against the two police officers who had detained him on 11 May 2004, namely S.R. and C.I.P. He was assisted by a lawyer during the entire course of the proceedings and argued that the two police officers had insulted, threatened and hit him for two hours on 11 May 2004 and had forced him to provide them with statements.

8. By an order of 20 September 2004 the Târgu-Mureş Prosecutor's Office discontinued the criminal investigation opened against the two police officers on the grounds that no unlawful act had been committed. It found that at 4 a.m. on 11 May 2004, P.H. had witnessed from the window of his home two individuals who were taking things out of the boot of a car. Suspecting that the two individuals were thieves, he decided to go out of his

house and stop them. He asked L.S. to call the police and proceeded towards the two individuals, who started to run away. P.H. pursued them and managed to catch the applicant, who was drunk and kept falling over. Although P.H. tried to hold him up until the police arrived, the applicant kept pushing him away in repeated attempts to escape. The applicant was taken to the police station by officers S.R. and C.I.P. and was left in the company of S.R., who attempted to question him. C.I.P. returned to the scene of the crime to take statements from the witnesses, L.S. and P.H. According to the police officers' statements, the applicant had refused to answer any questions and denied that he had committed any crime. They also stated that he had threatened the officers, which was confirmed by the witness, P.H. The officers alleged that the applicant had become angry because he had not been allowed to leave and had vigorously smashed his head into the window of the room in which he was detained, but had not managed to break it because it was fitted with metal rods. Consequently, the Târgu-Mureş Prosecutor's Office held that the two police officers had acted within the scope of their duties prescribed by law and that the applicant's injuries, confirmed by the medical forensic report, had been caused by the fight the applicant had had with a third party, namely P.H., and by his own deliberate actions. The applicant appealed against the decision before the hierarchical prosecutor.

9. By a final order of 27 October 2004, the chief prosecutor of the Târgu-Mureş Prosecutor's Office dismissed the applicant's appeal on the grounds that there was no evidence in the file that the applicant had been hit or insulted by the police officers and that his injuries could have been caused by the third party who had immobilised him. The chief prosecutor held that according to the witness, P.H., the applicant was drunk and when the witness caught him, he attempted to start a fight, but fell and hit the curb, which made his clothes dirty with dust and mud and his face bleed. The same witness stated that although the police officers forced the applicant to get into the police car, they were not violent. The second witness, L.S., confirmed that the applicant attempted to escape from P.H.'s hold several times and that P.H. pinned him to the ground each time. L.S. also confirmed that the applicant's face was already bleeding and his clothes were covered in dust and mud prior to the police officers' arrival. Furthermore, the police officers denied having committed an offence and declared that by the time they arrived at the scene, the applicant had been pinned to the ground by P.H., who informed them that there had been a struggle between him and the applicant. The officers further stated that they had taken the applicant to the police car and asked him to lie down because he was bleeding. They also contended that at the police station the applicant had become angry and smashed his head against a glass window. The applicant appealed against the decision before the Mureş County Court, arguing that the forensic investigation, which had taken place several days

after the incident, had been superficial because the forensic specialist had not x-rayed his ribs, which had been broken as a result of police aggression.

10. By a judgment of 28 January 2005, the Mureş County Court dismissed the applicant's appeal and upheld the order of the Prosecutor's Office. It held that the injuries suffered by the applicant on 11 May 2004 were undeniable, but that they had been caused as a result of the physical interaction between the applicant and P.H., and the applicant's own deliberate actions. The applicant appealed against the judgment.

11. In his written submission before the Târgu-Mureş Court of Appeal lodged on 4 April 2005, the applicant stated that he had been beaten by the two police officers. He argued that he had only been taken to a forensic doctor eight or nine days after the incident and that the forensic investigation had been superficial as the doctor had not x-rayed his ribs. Moreover, he had been ill-treated by the police officers before and after being taken to the police station and his requests for a lawyer and a prosecutor to investigate his case had been ignored. Consequently, in an attempt to stop the ill-treatment to which they were subjecting him, he had jumped and smashed into a window fitted with metal rods.

12. By a final judgment of 4 April 2005 the Târgu-Mureş Court of Appeal dismissed the applicant's appeal as ill-founded on the grounds that there was no evidence in the file to support the applicant's claims that his injuries had been caused by the two police officers.

2. Alleged lack of medical treatment in prison

13. The applicant was transferred to Târgu-Mureş Prison from 9 June 2004 to 25 August 2006.

14. On 14 July 2004 the applicant was examined and treated *inter alia* for obliterative arteriopathy in his legs (*arteriopatie obliterată a membrelor inferioare*).

15. Between 19 October and 8 November 2004, the applicant was detained in Dej Prison Hospital. A medical report dated 19 October 2004 showed that he was suffering from pain in his legs, paraesthesia and bad circulation. He also had a weak bilateral arterial pulse. He was treated with anti-inflammatory and anti-platelet drugs, multivitamins, muscle relaxants and beta blockers. By the time he was discharged from the hospital, his condition had improved and it was recommended that he stop smoking and start a special diet. He was also prescribed anti-platelet and anti-hypertension medicines and treatment with a vasodilator, and advised to consult a cardiovascular specialist.

16. On 23 November 2004 the applicant wrote to the Târgu-Mureş Prison authorities requesting examination by a cardiovascular surgeon as recommended by his discharge papers from Dej Prison Hospital. He claimed that he was suffering from pain in his legs as a result of his condition, which prevented him from sleeping at night. Moreover, he stated

that he had asked the prison medical office to assist him with his request, and although the prison doctor had attempted to contact the Rahova Prison Hospital, he had never been taken for the examination. Lastly, he informed the prison authorities that he had decided to go on hunger strike until a specialist doctor had examined him. On the same date the prison doctor recommended that the applicant be taken for an additional medical examination.

17. On 14 December 2004 the applicant was examined by a specialist doctor in the Târgu-Mureş No. 4 Clinic. A medical report produced on the same date recommended that the applicant be subjected to a peripheral vascular Doppler test or to an aortography.

18. On 14 December 2004 the applicant wrote to the Târgu-Mureş Prison authorities and asked to be hospitalised in a civilian hospital for an aortography, which he claimed could not be carried out in a prison hospital. He argued that his condition was deteriorating and that he needed surgery in order to treat his condition and avoid losing his left leg.

19. On an unspecified date the Târgu-Mureş Prison doctor recommended that the applicant undergo a neurological examination by January 2005 and that he be hospitalised in a civilian hospital for a maximum of two days for an aortography.

20. On 22 December 2004 the applicant underwent a neurological examination.

21. On 5 January 2005 the Târgu-Mureş Prison authorities requested that the applicant be hospitalised in the cardiovascular surgery unit of the Rahova Prison Hospital for an aortography. In addition, on 13 January 2005 they recommended once more that the applicant be transferred to Rahova Prison Hospital for examination by a specialist.

22. Between 18 January 2005 and 7 February 2005 the applicant was hospitalised in Rahova Prison Hospital with a diagnosis of chronic arteriopathy (*arteriopatie cronică oscilantă a membrelor inferioare*) and pain in the left leg.

23. On 26 January 2005 the applicant was taken to the Central Military Hospital for a cardiovascular examination. He was diagnosed with stage-two thrombangeitis obliterans in the left leg and recommended surgery, in particular a sympathectomy, and vasodilator treatment.

24. On 1 February 2005 the applicant consented to an operation in the Rahova Prison Hospital. The surgery was performed the same day and was successful.

25. He spent the first twenty four hours after the surgery in the intensive care unit of the prison hospital. Afterwards he was transferred to room no. 5 of the surgical ward, which had the necessary medical equipment as well as beds, windows and heating. He received treatment with anticoagulants, anti-algic and anti-hypertension medication until 7 February 2005. The medical records show that his post-surgery recovery was normal.

26. On 7 February 2005 the applicant was transferred to Târgu-Mureş Prison with the doctor's approval. He was prescribed a special diet, rest, monitoring by the prison infirmary for ten days, and the removal of post-surgery stitches.

27. The applicant claimed that, prior to his transfer from Rahova Prison Hospital he had spent the night in a cold room. Moreover, the transfer to Târgu-Mureş Prison had taken thirteen hours and his wound had started to bleed.

28. Upon his arrival at Târgu-Mureş Prison, the applicant was examined by the prison doctor and given a bed in room no. 1 of the prison infirmary, which had windows and heating. The doctor prescribed medical treatment for him, checked his post-surgery stitches, and recommended that the stitches be removed.

29. On 8 February 2005 the applicant's post-surgical wound started to fester and he was prescribed antibiotic treatment.

30. On 9 February 2005 the applicant refused to take the antibiotic and anti-hypertension medication provided to him by the prison authorities.

31. On 11 February 2005 the applicant's dressing was changed. According to his medical chart, he had not ensured the correct hygiene for his post-surgical wound. He refused to allow the stitches to be removed for a further three days.

32. On 14 February 2005 the applicant's stitches were removed. The dressing of the wound was changed and the doctor identified a slight festering of the wound and again prescribed treatment with antibiotics.

33. On 17 February 2005 the applicant's wound had healed and he was discharged from the Târgu-Mureş Prison infirmary. Later on the same date the dressing of his wound was changed. According to the medical records, the applicant had failed to use clean underwear, the wound was producing light serous secretions, but pus was absent.

34. On 18 and 24 February and 1 March 2005 the applicant was examined by the Târgu-Mureş Prison doctor and the medical records state that his wound had continued to fester. On 1 March 2005, as a result of the pain the wound was causing the applicant, the prison doctor recommended that he be transferred to Dej Prison Hospital.

35. On 8 March 2005 the applicant was hospitalised in Dej Prison Hospital and diagnosed with an abscessed granuloma on the surgical scar. He was treated for his condition and discharged from the prison hospital on 22 March 2005 after his condition had improved.

36. Between 26 April and 3 May 2005 the applicant was hospitalised again in Dej Prison Hospital because of pain in his legs, in particular cold sensations and paraesthesia. The medical records show that he was treated for his condition and that upon discharge, his surgical wound had healed and his condition had improved. Moreover, he was recommended vasodilator treatment and an examination by a cardiovascular specialist.

37. On 15 June 2005 following a complaint made by the applicant to the National Administration of Prisons ("the NAP") that the prison doctor had failed to undertake all the necessary steps for him to be hospitalised in a cardiovascular unit, the NAP informed the applicant that his medical records showed that he had been monitored and examined for his condition several times by the prison hospitals. The specialist doctors had recommended that he stop smoking and take his prescribed medication. The Târgu-Mureş Prison medical office had examined the applicant forty one times and provided him with the medication prescribed by the specialist doctors. Moreover, the NAP argued that the applicant had failed to observe the doctors' recommendations to stop smoking and follow the prescribed treatment. Consequently, the NAP concluded that the prison doctor was free to decide the appropriate treatment for the applicant's condition and whether further medical examinations were required.

38. Between June and 2 August 2005 the applicant was hospitalised several times in civilian hospitals for medical examinations. He was provided treatment for his condition and underwent both a Doppler test and an aortography. The discharge papers dated 2 August 2005 recorded that the applicant was scheduled for surgery on 12 September 2005 for an ilio-femoral bypass.

39. On 18 July 2005 the Târgu-Mureş Prison doctor informed the prison authorities that the applicant's medical condition was not connected to the conditions of his detention but rather to his unwillingness to give up smoking. Moreover, he had been provided with medical treatment for his condition and additional medical examinations were scheduled.

40. On an unspecified date the applicant brought proceedings before the domestic courts seeking his temporary release for three months on medical grounds.

41. By a final judgment of 7 September 2005 the Târgu-Mureş District Court allowed the applicant's action seeking his temporary release from prison. It held that the forensic medical report produced on 28 July 2005 by the Târgu-Mureş Institute of Forensic Medicine had shown that the applicant's condition did not prevent him from serving his prison sentence. However, he needed reconstructive vascular surgery for his legs that could not be performed in a prison hospital.

42. Between 12 and 21 September 2005 the applicant was hospitalised in the general surgery unit of the Târgu-Mureş County Hospital and underwent ilio-femoral bypass surgery. His discharge papers stated that he was healed at the time of discharge and it was recommended that he take various medicines, rest, avoid the cold and stop smoking and drinking.

43. The applicant was temporarily released from prison between 21 September and 14 December 2005.

44. On 15 December 2005 the applicant returned to prison after his temporary release on medical grounds, following his ilio-femoral bypass

surgery. According to a medical examination carried out on the same date, the applicant had not followed the recommended post-surgery treatment during his temporary release from prison.

45. Between January and June 2006 the applicant was examined nine times by the prison doctor and was provided treatment for his medical conditions.

46. On 22 June 2006 the applicant was hospitalised in Dej Prison Hospital complaining of pain in his legs, in particular cold extremities and paraesthesia. He was provided treatment and discharged after his condition had improved. He was prescribed analgesic and vasodilator treatment, and a surgical examination after two months.

47. On 25 August 2006 the applicant was conditionally released from prison.

B. Relevant domestic law

48. The relevant provisions of the Code of Criminal Procedure regarding the remedies available in order to contest prosecutors' decisions are described in *Dumitru Popescu v. Romania (no. 1)* (no. 49234/99, §§ 43-45, 26 April 2007).

49. Excerpts from the relevant provisions concerning the rights of detainees and the stay of execution of a sentence of imprisonment, namely Government Ordinance 56/2003 and the Code of Criminal Procedure, are set out in *Petrea v. Romania* (no. 4792/03, §§ 22 and 23, 29 April 2008).

COMPLAINTS

50. The applicant complained under Articles 1, 2, 5 § 5, 6 § 2 and 7 of the Convention, without substantiating his complaints.

51. The applicant complained under Article 3 of the Convention that on the day of his arrest he had been subjected to ill-treatment. He alleged that he had been hit by the police officers for two hours before and after being taken to the police station. He also complained of the ineffectiveness of the criminal investigation, alleging that he had not been taken to the Târgu-Mureş Institute of Forensic Medicine until several days after the day of his arrest, that the medical examination had been superficial and that he had needed at least seven to eight days to recover.

Under the same Article of the Convention, he also complained of a lack of adequate medical treatment in prison in so far as the first operation had been a failure and had to be followed by a second surgery that could not be provided by a prison hospital, that the wound had become infected and that

his condition had taken one month to stabilise, during which time he had experienced terrible pain and his physical integrity had been put at risk.

52. Relying in substance on Article 6 § 1 of the Convention, the applicant complained that the criminal proceedings brought by him against the police officers had been unfair in so far as the domestic authorities had lacked impartiality.

53. Relying in substance on Article 8 of the Convention, the applicant complained that he had been unable to obtain copies of documents from his medical file.

THE LAW

A. Alleged violation of Article 3 of the Convention

54. The applicant complained that he had been subjected to ill-treatment by police officers on 11 May 2004 following his arrest and that the investigation of the incident had been ineffective. In addition, he claimed that the medical treatment he had received while in detention had been inadequate for his medical condition. 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."

1. Complaint concerning the alleged ill-treatment and ineffectiveness of the investigation

(a) The parties' submissions

55. The Government did not contest the existence of some of the injuries suffered by the applicant as recorded by the medical reports, in particular the forensic report of 14 May 2004, but they stressed that the said injuries had not been caused by the actions of the police officers, as admitted in part by the applicant himself and proved by the evidence gathered by the domestic authorities. The Government argued that the applicant appeared to have acted in bad faith, given his behaviour towards the police officers and the fact that he had not asked for his injuries to be treated, but rather to be recorded by doctors. In addition, he had failed to open criminal proceedings against the third parties who had injured him, even though he knew their identity. Consequently, there was no connection between the applicant's injuries and the police officers' behaviour at the time of his arrest on 11 May 2004.

56. The Government also submitted that the domestic authorities had carried out a detailed and effective investigation. They had gathered all the evidence that was necessary to determine the facts and the causes of the applicant's injuries. Moreover, in the present case there was no indication that the prosecutors charged with investigating the case had lacked impartiality. Furthermore, the domestic courts had upheld the public prosecutor's decisions after they had examined the evidence available in the file. The fact that the investigation had not resulted in the conviction of the police officers could not be considered as a sign of ineffectiveness, as the domestic authorities had established that no unlawful act had been committed by the officers.

57. The applicant did not submit observations on this point.

(b) The Court's assessment

58. The Court reiterates that in assessing evidence, it adopts the standard of proof "beyond reasonable doubt" (see *Orhan v. Turkey*, no. 25656/94, § 264, ECHR 2002). Such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Stoica v. Romania*, no. 42722/02, § 63, 4 March 2008). The Court is sensitive to the subsidiary nature of its role and must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case (see, for example, the *McKerr v. the United Kingdom* decision, no. 28883/95, 4 April 2000, and *Stoica*, cited above § 64). Where domestic proceedings have taken place, it is not the Court's task to substitute its own assessment of the facts for that of the domestic authorities and, as a general rule, it is for those authorities to assess the evidence before them (see *Klaas v. Germany*, 22 September 1993, § 29, Series A no. 269). Although the Court is not bound by the latter's findings, in normal circumstances it requires cogent elements to lead it to depart from the findings of fact they have reached (ibid., § 30).

59. In the instant case, the applicant alleged that he had been hit by police officers on 11 May 2004 before and after his transfer to the police station following his arrest for theft and that the authorities had not conducted an effective investigation into the incident. The Government, for their part, denied that the applicant's injuries had been caused by State agents and claimed that the authorities had carried out a detailed investigation of the applicant's allegations.

60. In the light of the parties' conflicting submissions on the events in question, the Court must ascertain whether the applicant was indeed ill-treated by police officers and whether the investigation conducted by the national authorities was adequate and effective in the circumstances of the case. In carrying out this scrutiny, the Court will rely on the documentary evidence submitted by the parties.

61. It appears that subsequent to the criminal complaint made by the applicant against the police officers in respect of the alleged ill-treatment to which he had been subjected on 11 May 2004, the authorities immediately commenced a thorough investigation. In this respect, they took statements from the applicant, the two police officers involved in the applicant's arrest and transfer to the police station, and the two witnesses who had been directly involved in and witnessed the events of 11 May 2004. It also appears from the evidence in the file that the applicant himself admitted that he voluntarily smashed his head into a glass window while he was detained at the police station. Moreover, the two witnesses informed the authorities that one of them had struggled repeatedly with the applicant and that the applicant was already injured, including on his face, and was bleeding by the time the police officers arrived. Furthermore, none of the witnesses saw any of the police officers behaving violently towards the applicant, although they testified that he was behaving threateningly towards them.

62. On the day of his arrest the authorities arranged for the applicant to be examined by two separate doctors and he underwent two separate medical examinations. In addition, three days after the events of which he complained, the authorities took him to the Institute of Forensic Medicine for a forensic examination of his injuries. All the medical examinations confirmed the existence of contusions and bruises on the applicant's face and body. In this connection, the Court observes that while the injuries in question could be considered to be consistent with the applicant's allegation that he was ill-treated by police officers, the medical findings contained in the reports, including the forensic report, do not entirely correspond to the ill-treatment allegedly inflicted on him. In particular, although the applicant alleged that he had been beaten by the officers and that his ribs were broken, there was no such medical finding. Moreover, the witnesses' and the applicant's own statements suggest that the injuries described by the medical records had been inflicted either prior to his encounter with the police or as a result of the applicant's own actions. It is to be noted in this connection that the applicant does not appear to have contested the witnesses' statements at any stage of the proceedings, nor did he open criminal proceedings against them for perjury.

63. In this context, having examined the documents submitted by the Government, and contrary to the applicant's allegations, the Court finds that it does not appear that the domestic authorities displayed any unwillingness or resistance to initiate a criminal investigation of the police officers' conduct. Nor does it appear that they would have refused to question any witness or to follow up any possible leads suggested by the applicant that would have proved that he had been ill-treated by State agents.

64. In view of the foregoing, the Court is unable to find that the police officers might have been responsible for the alleged ill-treatment of the

applicant. It notes that the only evidence that State officials were responsible for his injuries is the applicant's statement.

65. As regards the investigation conducted into the alleged events in question, the Court is satisfied that the domestic authorities responded promptly and sufficiently to the applicant's complaints with a view to determining whether the police officers had ill-treated him. The investigating authorities interviewed all the relevant witnesses and suspects, and followed up the allegations made by the applicant. The applicant was offered the opportunity to state his case, was given full access to the investigation, and was also represented by a lawyer. Furthermore, it has not been shown that there was a problem of independence on the part of the investigating authorities. In this connection, the Court reiterates that while an effective investigation must be capable of leading to the identification and punishment of those responsible, it should be borne in mind that this is an obligation not of result, but of means (see, for example *McKerr v. the United Kingdom*, no. 28883/95, § 113, ECHR 2001-III). Lastly, the applicant failed to bring criminal proceedings against the third parties with whom he had physically fought on 11 May 2004.

66. Therefore, this part of the application should be declared inadmissible as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

2. Complaint concerning the alleged lack of medical treatment in prison

(a) The parties' submissions

67. The Government raised a preliminary objection of non-exhaustion of domestic remedies, in so far as the applicant had not complained before the domestic courts of a lack of adequate medical treatment for the arteriopathy in his legs on the basis of Emergency Ordinance 56/2003.

68. The applicant did not submit observations on this point.

(b) The Court's assessment

69. The Court has already had the opportunity to examine a similar objection raised by the Government in the case of *Petrea v. Romania* (cited above). It concluded that before the entry into force of Emergency Ordinance 56/2003, on 25 June 2003 there had been no effective remedy for the situation that the applicant had complained of. However, after that date, others in the same situation had had an effective remedy in respect of their complaints of a lack of medical treatment, even where their applications were already pending with the Court at the time (see *Petrea*, cited above, §§ 35-36).

70. As regards the instant case, in respect of the treatment of reconstructive vascular surgery which could not be provided by prison hospitals, the Court notes that, in spite of the applicant's allegations, the available evidence does not indicate that the applicant was denied the necessary treatment for his condition. His action seeking temporary release from prison was allowed and he was promptly hospitalised in a civilian hospital by the prison authorities. Between 12 and 21 September 2005 he remained under constant medical supervision and treatment in the civilian hospital and was healed at the time of his discharge from the hospital. Moreover, on the day of his discharge from hospital he was also temporarily released from prison in order to receive post-surgical care in civilian hospitals.

71. Consequently, the Court finds no evidence in the file of a potential breach of the applicant's right to receive the reconstructive vascular surgery that he required.

72. In respect of the remaining types of treatment which the prison authorities could have provided but to which he allegedly did not have access, the Court sees no reason to depart in the present case from the conclusions it reached in the case of *Petrea* and considers that the applicant should have complained of a lack of medical treatment before the domestic courts.

73. It follows that the applicant's complaint concerning a lack of adequate medical treatment is manifestly ill-founded in respect of the reconstructive vascular surgery, and is inadmissible for non-exhaustion of domestic remedies in respect of other types of treatment available to him in prison and allegedly not provided to him by the prison authorities. Consequently, this part of the applicant's complaints must be rejected in accordance with Article 35 §§ 1, 3 and 4 of the Convention.

B. Other alleged violations of the Convention

74. The applicant complained under Articles 1, 2, 5 § 5, 6 § 2 and 7 without substantiating his complaints. Relying in substance on Article 6 § 1, the applicant complained of the unfairness of the criminal proceedings he had brought against the two police officers for ill-treatment on the basis that the domestic authorities had lacked impartiality. Relying in substance on Article 8 of the Convention, the applicant complained that he had been unable to obtain copies of documents from his medical file.

75. The Court has examined these complaints as submitted by the applicant. However, having regard to all the material in its possession, and in so far as they fall within its jurisdiction, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part

of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Santiago Quesada
Registrar

Josep Casadevall
President