



The Belgian authorities prevented the suicide of a prisoner with psychological problems but subjected him to degrading treatment

In today's Chamber judgment¹ in the case of [Jeanty v. Belgium](#) (application no. 82284/17) the European Court of Human Rights held:

- by a majority, that there had been **no violation of Article 2 (right to life)** of the European Convention on Human Rights, and
- unanimously, that there had been a **violation of Article 3 (prohibition of inhuman or degrading treatment)**.

The case concerned an individual suffering from a psychological disorder who made several suicide attempts while in pre-trial detention in Arlon Prison.

The Court considered that Article 2 was applicable in the present case because the very nature of Mr Jeanty's actions (repeated suicide attempts) had put his life at real and imminent risk. The Court went on to find that the measures taken by the authorities had actually prevented Mr Jeanty from committing suicide.

The Court also found that Mr Jeanty had suffered distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, particularly on account of the lack of medical supervision and treatment during his two periods of detention, combined with his placement in an isolation cell for three days as a disciplinary measure in spite of his repeated suicide attempts. It also held that the investigation in that regard had been ineffective.

Principal facts

The applicant, Philippe Jeanty, is a Belgian national who was born in 1969 and lives in Arlon (Belgium).

Period of detention from 26 June to 12 August 2011

In June 2011 Mr Jeanty was arrested and taken into police custody on suspicion of the offences of indecent assault accompanied by violence or threats, and assault resulting in unfitness for work, committed against his wife. During police questioning he reported being in psychological distress and asked to be compulsorily confined, saying that he intended to take his own life.

The following day the investigating judge ordered Mr Jeanty's placement in pre-trial detention and informed Arlon Prison of his suicidal tendencies. After arriving at the prison Mr Jeanty made three suicide attempts. The prison staff removed all objects and his personal effects. He was placed in a secure isolation cell and a doctor administered a tranquiliser. Mr Jeanty was kept under special surveillance for a few days. He was released on bail on 12 August 2011.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Period of detention from 21 October to 2 December 2011

In October 2011 a second arrest warrant was issued against Mr Jeanty, as he had not complied with his bail conditions. He was therefore taken back to Arlon Prison, where he made several requests to move to a different cell, complaining about his cellmates.

In November 2011, following the refusal of the head of the prison officers to allow him to change cell again, Mr Jeanty threatened to commit suicide. He was placed in an isolation cell under special surveillance. During a check, a guard found him perched on the bars of the door in the process of attaching his trousers. He was stopped before he could throw himself off. On the doctor's orders, the staff put a helmet on him and handcuffed him to prevent him from hitting his head against the wall and injuring himself. He remained restrained in that way until the following day.

Two days later Mr Jeanty was brought out of isolation and was interviewed by the prison governor, who ordered his placement in an isolation cell for three days as a disciplinary sanction, taking the view that the applicant's suicide threats had been aimed at pressurising the prison staff into allowing him to change cell. Mr Jeanty was released on bail on 2 December 2011.

Subsequent events

In April 2014 Mr Jeanty lodged a complaint against a person or persons unknown, alleging that he had been subjected to inhuman and degrading treatment during his two periods in pre-trial detention, and complaining of being placed in ordinary prison cells although his state of health meant that he needed psychological support. The complaint was dismissed and that decision was upheld on appeal. Mr Jeanty appealed unsuccessfully on points of law.

Also in April 2014 Mr Jeanty was sentenced at first instance to a term of four years' imprisonment, half of which was suspended, for the offences of indecent assault accompanied by violence or threats, and assault resulting in unfitness for work, committed against his wife. In April 2019 the Court of Appeal set aside that judgment and found that Mr Jeanty was not criminally responsible for his actions. It ordered his compulsory confinement and his immediate arrest.

Complaints, procedure and composition of the Court

Relying on Article 2 (right to life) of the Convention, Mr Jeanty alleged that the authorities had failed in their duty to take the appropriate measures in his case to prevent the certain and immediate risk of attempted suicide from materialising.

Under Article 3 of the Convention (prohibition of torture and inhuman or degrading treatment), he complained of a lack of appropriate medical care during his detention. He also complained about the treatment to which he had been subjected while in isolation and of the lack of an effective investigation.

The application was lodged with the European Court of Human Rights on 20 November 2017.

Judgment was given by a Chamber of seven judges, composed as follows:

Georgios A. **Serghides** (Cyprus), *President*,
Paul **Lemmens** (Belgium),
Paulo **Pinto de Albuquerque** (Portugal),
Helen **Keller** (Switzerland),
María **Elósegui** (Spain),
Erik **Wennerström** (Sweden),
Lorraine **Schembri Orland** (Malta),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Article 2 (right to life)

Whether Article 2 was applicable

Mr Jeanty had survived his suicide attempts. Nevertheless, that fact in itself did not preclude the applicability of Article 2 of the Convention. Where the activity involved by its very nature was dangerous and put a person's life at real and imminent risk, as in the case of life-threatening violence, the level of injuries sustained might not be decisive, and even in the absence of injuries a complaint in such cases might fall to be examined under Article 2.

In the present case Mr Jeanty had made several attempts on his own life while in detention, and it was because of the intervention of the prison staff that he had not succeeded. The fact that the applicant had not sustained life-threatening injuries, or apparently any serious physical injury, was not decisive in this case, as the very nature of the applicant's actions had placed his life at real and imminent risk. Accordingly, Article 2 was applicable in the present case.

Whether the national authorities took the necessary measures to safeguard Mr Jeanty's life

The Court considered that, overall, the authorities had done all that could reasonably be expected of them to prevent the risk to Mr Jeanty's life from materialising, in so far as they had had knowledge of the certain and immediate nature of that risk. Moreover, the measures taken had actually prevented Mr Jeanty from committing suicide. Consequently, there had been no violation of Article 2 of the Convention.

Article 3 (prohibition of inhuman or degrading treatment)

Whether Mr Jeanty was subjected to treatment contrary to Article 3

The Court considered that in view of Mr Jeanty's mental state, the lack of medical supervision and treatment during his two periods of detention, combined with his placement in an isolation cell for three days as a disciplinary measure in spite of his repeated suicide attempts, amounted to particularly acute hardship, causing him distress of an intensity exceeding the unavoidable level of suffering inherent in detention. The Court did not doubt that this treatment had aroused in him feelings of arbitrariness, inferiority, humiliation and anguish. The fact that it had not been designed to humiliate or debase the applicant did not prevent it being characterised as degrading and thus falling within the scope of the prohibition set out in Article 3. There had therefore been a violation of the substantive aspect of Article 3 of the Convention.

The effectiveness of the investigation into Mr Jeanty's criminal complaint

It emerged from the reasoning of the Indictments Division's judgment that the investigation carried out under the authority of the investigating judge had established with some degree of accuracy the events that had taken place in the prison. Nevertheless, more than eight months had elapsed between the public prosecutor's submissions recommending an investigation (July 2014) and the point at which the investigating judge had received the file (March 2015). The length of time that had elapsed before the commencement of the investigation had not been explained by the Government and was difficult to understand and accept, given that a criminal complaint had been lodged for inhuman and degrading treatment and culpable failure to act.

Moreover, when the investigation began in March 2015 the investigating judge had simply requested the investigators to obtain and examine Mr Jeanty's prison and medical records. No other measures had been ordered. None of the persons concerned had been questioned, be it the prison staff, the doctors who had attended Mr Jeanty or the applicant himself. Less than three months after the file had been received by the investigating judge, the public prosecutor had recommended that

the proceedings be discontinued. Such an investigation could not be considered effective. Accordingly, there had been a violation of the procedural aspect of Article 3 of the Convention.

[Just satisfaction \(Article 41\)](#)

The Court held that Belgium was to pay Mr Jeanty 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 8,000 for costs and expenses.

Separate opinion

Judges Serghides, Pinto de Albuquerque and Schembri Orland expressed a separate opinion which is annexed to the judgment.

The judgment is available only in French.

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Press contacts

Journalists can continue to contact the Press Unit via echrpess@echr.coe.int

Inci Ertekin

Tracey Turner-Tretz

Denis Lambert

Patrick Lannin

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.