



Structural issues behind placement of mentally ill individuals in prison system

In today's **Chamber** judgment¹ in the case of [Miranda Magro v. Portugal](#) (application no. 30138/21) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, and

a violation of Article 5 § 1 (right to liberty and security).

The case concerned Mr Miranda Magro's preventative detention, which had been ordered by the courts following a finding in 2019 that he was not criminally responsible for a number of alleged offences owing to his mental disorder (having been diagnosed with paranoid schizophrenia in 2002).

The Court found in particular that there had been a failure to ensure appropriate care to Mr Miranda Magro during his detention, which had implications for his health. It also found that his detention in a prison facility – inappropriate for a mentally ill person – without adequate care had caused confusion and fear, in violation of his rights.

The Court held under **Article 46 (binding force and execution of judgments)** that the violations were not attributable solely to Mr Miranda Magro's personal circumstances, but were the result of a structural problem. It urged the Portuguese State to ensure appropriate living conditions and suitable and individualised treatment to mentally ill individuals.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Rui Miguel Miranda Magro, is a Portuguese national who was born in 1975 and lives in Évora (Portugal).

Mr Miranda Magro was diagnosed with paranoid schizophrenia in 2002. In September 2019 he was found guilty of, but not criminally responsible for, criminal damage, making threats and sexual harassment. The Évora Criminal Court ordered his preventative detention for a maximum of three years in a psychiatric facility. However it suspended that order on the condition that he undergo the necessary psychiatric treatment at the Espírito Santo Hospital in Évora.

As Mr Miranda Magro had missed some appointments or had not seen a specialist when at the appointments, and further serious criminal allegations had been made against him, the authorities concluded that he was in a vulnerable situation. As a result, in February 2021 the Criminal Court concluded that he had broken the terms of the suspension of his preventative detention, and ordered his confinement. In April of that year owing to a shortage of space at the Júlio de Matos Hospital in Lisbon, he was placed in the psychiatric unit of the Caxias Prison Hospital to await admission outside the prison system.

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.

On an unspecified date Mr Miranda Magro's brother lodged a habeas corpus application with the Supreme Court of Justice, claiming that his brother was being unlawfully detained at the Caxias Prison Hospital. That was dismissed, but the Supreme Court did note the temporary nature of his detention in the Caxias Prison Hospital and that he should be urgently transferred to a healthcare facility outside of the prison system.

As regards conditions and care in the Caxias Prison Hospital, the applicant submitted that he had not received the medical treatment required by his mental health condition but had instead been treated with excessive medication which had long-lasting effects. He asserted that the prison hospital was not a mental-health institution and had not been an appropriate facility in which to hold him, and had led to a deterioration in his condition.

The Government stated, however, that Mr Miranda Magro had received appropriate care. There had been an agreed treatment plan carried out by a multidisciplinary team. He had received the correct medication and had been able to take part in activities while in detention, and to maintain contact with his brother. Furthermore, the conditions of his detention had been adequate, and he had not been subjected to inhuman and degrading treatment.

On 18 October 2021 Mr Miranda Magro was transferred to the Sobral Cid Psychiatric Clinic, a mental-health facility in Coimbra.

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of inhuman or degrading treatment), 4 (prohibition of forced labour), 5 (right to liberty and security), 6 (right to a fair trial), 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the European Convention on Human Rights, Mr Miranda Magro complained, in particular, of inadequate medical treatment in the psychiatric unit of the Caxias Prison Hospital, and that his detention had not been lawful since he had not received the appropriate treatment for his condition.

The application was lodged with the European Court of Human Rights on 9 June 2021.

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

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,
 Tim **Eicke** (the United Kingdom),
 Faris **Vehabović** (Bosnia and Herzegovina),
 Armen **Harutyunyan** (Armenia),
 Anja **Seibert-Fohr** (Germany),
 Ana Maria **Guerra Martins** (Portugal),
 Sebastian **Rădulețu** (Romania),

and also Ilse **Freiwirth**, *Deputy Section Registrar*.

Decision of the Court

Article 3

The Court noted the disagreement between the parties as to Mr Miranda Magro's conditions of detention. However, the Court did reference the relevant reports by the Committee for the Prevention of Torture (CPT) and the United Nations, which highlighted mental-health-related issues as one of the main challenges facing the prison system in Portugal. The CPT, in particular, stated that such patients did not have "an adequate therapeutic environment".

As to the Caxias Prison Hospital, it was intended for the temporary detention of regular inmates with mental-health problems, not for permanent care.

The Government had failed to provide any evidence of an individual treatment plan for Mr Miranda Magro and failed to refute his consistent allegations as regards the level of care received. The nature of his condition had rendered him more vulnerable than the average detainee and his detention may have exacerbated to a certain extent his feelings of distress, anguish and fear. The failure of the authorities to provide him with appropriate assistance and care had unnecessarily exposed him to a risk to his health and had to have resulted in stress and anxiety.

Overall, the Court therefore concluded that there had been a violation of Article 3.

Article 5

It was not disputed that Mr Miranda Magro had been deprived of his liberty and that Article 5 was applicable. The detention had been “prescribed by law”, as confirmed by the Portuguese Supreme Court, and had been ordered owing to the risk to others.

Again, the Court noted that the Caxias Prison Hospital, where Mr Miranda Magro had been held for about six months, was not part of the healthcare system. It reiterated that keeping detainees with mental illnesses in the psychiatric ward of ordinary prisons pending their placement in a proper mental-health establishment without the provision of sufficient and appropriate care was not compatible with the protection guaranteed by the Convention for such individuals. The care, beyond basic care, and the environment had not been appropriate for Mr Miranda Magro’s situation.

His detention in a prison facility environment must have aggravated his state of confusion and fear.

There had therefore been a violation of Article 5 § 1 of the Convention.

Other articles

The complaints under Articles 4, 6 and 13 of the Convention were found to be outside the scope of the case and therefore were inadmissible.

Under Article 8, the Court noted, in particular, Mr Miranda Magro’s daily contact with his brother and held the complaint of damage to his family life to be ill-founded.

Binding force and execution of judgments (Article 46)

The Court considered that the infringements found in the present case were not attributable solely to Mr Miranda Magro’s personal circumstances but were the result of a structural problem. It noted recent changes to the law in Portugal which it considered to be positive, but stated that enforcement of those provisions was still necessary. The State had to urgently ensure appropriate living conditions and suitable and individualised treatment to mentally ill individuals who needed special care owing to their state of health in order to support their possible return and integration into the community.

Just satisfaction (Article 41)

The Court held that Portugal was to pay the applicant 34,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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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.