



## Albanian authorities must address longstanding problem of lack of medical institutions for the mentally ill who are subject to court-ordered treatment

The case of **Strazimiri v. Albania** (application no. 34602/16) concerned the detention of a man, who had been exempted from criminal responsibility on account of mental illness, in a prison rather than a medical institution.

In today's **Chamber** judgment<sup>1</sup> in the case the European Court of Human Rights held, unanimously, that there had been:

a **violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights because of inadequate living conditions in the prison hospital where Mr Strazimiri was detained and insufficient psychiatric care, and

**violations of Article 5 §§ 1, 4 and 5 (right to liberty and security/ right to have the lawfulness of detention decided speedily by a court/enforceable right to compensation)**, in particular because of his continued deprivation of liberty in a prison rather than a medical institution and because his appeal against his detention had been pending before the Supreme Court since 2016.

The Court found in particular that there had been a longstanding failure by the Albanian authorities to set up a special medical institution for the mentally ill who were deprived of their liberty on the strength of court-ordered compulsory treatment. That was in breach of its domestic statutory obligations, and pointed to a structural problem.

It also held under **Article 46 (binding force and implementation)** that the authorities should not only ensure that Mr Strazimiri received psychotherapy, not just drugs, but also create an appropriate institution for those in his situation.

### Principal facts

The applicant, Arben Strazimiri, is an Albanian national who was born in 1973. He has been detained since 2011 in Tirana Prison Hospital.

Mr Strazimiri was arrested in 2008 for attempted premeditated murder, but the Tirana District Court found that he could not be held criminally accountable for his actions because of paranoid schizophrenia and ordered compulsory inpatient treatment in a medical institution. He was first sent to Kruja Prison in 2009 and then transferred to Tirana Prison Hospital in 2011.

Since then the domestic courts have reviewed Mr Strazimiri's situation on several occasions, finding that he was still a danger to himself and to others and that his family were not capable of providing the appropriate conditions to look after him if he were released. The courts therefore ordered his continued compulsory inpatient treatment in a medical institution, which chiefly consists in him taking psychotropic drugs.

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](http://www.coe.int/t/dghl/monitoring/execution).

He challenged his continued detention in court in 2014, arguing that, since he was neither a convict nor detained pending trial, his placement in a penal institution was contrary to domestic law and that he should be held in a special medical institution, as ordered by the courts. He also complained that his medical treatment and the conditions of his detention were inadequate. Both complaints were dismissed as manifestly ill-founded. His appeals against those decisions have been pending before the Supreme Court since April 2015 and January 2016.

Similar complaints to the prosecuting authorities have also been unsuccessful.

Both the courts and the prosecuting authorities found in particular that until such time as specialised institutions for mentally ill individuals who were exempted from criminal responsibility and were subject to court-ordered medical treatment had been built, it was not contrary to the law for them to be placed in an establishment which had been adapted to their needs, such as the special wing of Tirana Prison Hospital.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, Mr Strazimiri complained that the conditions of his detention, including the provision of medical care, had been inadequate.

He also made a number of complaints under Article 5 §§ 1, 4 and 5 (right to liberty and security) of the Convention, namely that he had been placed in a prison even though the courts had ordered his confinement in a medical institution, that he had not been given the possibility to have the lawfulness of his detention decided speedily by a court, and that domestic law had not provided him with an enforceable right to compensation.

Lastly, he complained under Article 14 (prohibition of discrimination) in conjunction with Articles 3 and 5 that he had been discriminated against because of his mental illness.

The application was lodged with the European Court of Human Rights on 11 June 2016.

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

Robert Spano (Iceland), *President*,  
Marko Bošnjak (Slovenia),  
Valeriu Grițco (the Republic of Moldova),  
Egidijus Kūris (Lithuania),  
Ivana Jelić (Montenegro),  
Arnfinn Bårdsen (Norway),  
Darian Pavli (Albania),

and also Stanley Naismith, *Section Registrar*.

## Decision of the Court

### [Article 3 \(inadequate conditions of detention and medical care\)](#)

The Court took note of reports between 2015 and 2019 by the People's Advocate's Office (Ombudsman) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("the CPT") which had found Tirana Prison Hospital to be in an advanced state of dilapidation, with widespread damp and practically no central heating. Indeed, the CPT had recently reported that those conditions had further deteriorated. Mr Strazimiri, detained in the hospital since 2011, has been directly affected by the overall decline in the institution.

Furthermore, although he had been continuously treated with a course of medication for his mental-health problems, he had had no individual treatment plan, including psychiatric care. At least since 2014 the CPT had described many psychiatric patients such as Mr Strazimiri as being in a state of “therapeutic abandonment”.

Moreover, in the face of Mr Strazimiri’s complaints, both the domestic courts and the prosecuting authorities had even acknowledged that there were no special medical institutions for the mentally ill who had been ordered to have compulsory treatment by the courts.

The Court considered that the cumulative effect of the deteriorated living conditions in Tirana Prison Hospital and insufficient psychiatric care had amounted to inhuman and degrading treatment. There had therefore been a violation of Article 3 of the Convention.

#### [Article 5 § 1 \(continued deprivation of liberty\)](#)

The parties did not dispute that Mr Strazimiri’s confinement had been a measure covered by Article 5 § 1. In particular, there was no evidence to call into question the authorities’ conclusions that his mental-health problems had made him dangerous and that he had required compulsory medical treatment.

However, he had been detained in a prison hospital since 2011, which was a penal facility and not part of an integrated health system. The CPT had repeatedly criticised placing “persons of unsound mind” who had been exempted from criminal responsibility in penal facilities, while the People’s Advocate had observed that such a practice was in breach of domestic law.

In addition, the authorities had repeatedly limited themselves to finding that Mr Strazimiri’s family had not been capable of providing appropriate conditions to look after him, without considering any alternative, such as placing him in a civilian mental health facility.

The Court was also not convinced that he had been provided with appropriate psychiatric care. His treatment had chiefly relied on psychotropic drugs, and there had only been one psychiatrist for 84 patients in Tirana Prison Hospital.

The Court accordingly considered that Mr Strazimiri’s continued deprivation of liberty had not been lawful, in breach of Article 5 § 1.

#### [Article 5 § 4 \(right to have the lawfulness of detention decided speedily by a court\)](#)

Mr Strazimiri had started legal proceedings against his detention in 2014 and obtained a decision in 2015, which he had appealed to the Supreme Court. There was nothing to suggest that he had caused any delays in those proceedings, which had been pending for more than three years before the Supreme Court. The Government, on the other hand, had not provided any reasons for such a delay. The Court therefore found that the delay was entirely attributable to the authorities and considered that it was not compatible with the “speediness” requirement of Article 5 § 4.

#### [Article 5 § 5 \(enforceable right to compensation\)](#)

The Court found that Albanian legislation did not provide for a right to compensation for unlawful detention of individuals in Mr Strazimiri’s specific situation. Nor had the Government submitted any domestic case-law to prove otherwise. It therefore concluded that the applicant had not had an enforceable right to compensation, in violation of Article 5 § 5.

#### [Article 46 \(binding force and implementation\)](#)

The Court held that the authorities should as a matter of urgency ensure that the applicant receive individualised therapy and consider placing him in an alternative setting, outside a penal facility.

It also considered that Albania should take measures as soon as possible to provide appropriate living conditions and adequate health care to mentally ill persons who were subject to deprivation of

liberty because of the courts ordering their compulsory medical treatment. Such measures should include either refurbishing existing facilities or creating new specialised facilities whose purpose was to cure or alleviate the mental health of detainees, reduce their dangerousness and facilitate their reintegration into society. Pharmacological treatment should be combined with psychotherapy, as part of an individualised treatment plan in respect of each detainee. Lastly, the authorities should recruit sufficient qualified mental health care workers in such facilities and consider, where appropriate, the possibility of outpatient treatment.

### Other Articles

The Court found that it was not necessary to examine separately Mr Strazimiri's complaints under Article 13 in conjunction with Article 3 or under Article 14 in conjunction with Articles 3 and 5.

### Article 41 (just satisfaction)

The Court held that Albania was to pay the applicant 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,500 in respect of costs and expenses.

*The judgment is available only in English.*

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