January 2022
This factsheet does not bind the Court and is not exhaustive

Detention and mental health

See also the factsheets on "Detention conditions and treatment of prisoners" and "Prisoners' health rights".

"The [European] Court [of Human Rights] has held on many occasions that the detention of a person who is ill may raise issues under Article 3 of the [European] Convention [on Human Rights, which prohibits inhuman or degrading treatment] ... and that the lack of appropriate medical care may amount to treatment contrary to that provision ... In particular, the assessment of whether the particular conditions of detention are incompatible with the standards of Article 3 has, in the case of mentally ill persons, to take into consideration their vulnerability and their inability, in some cases, to complain coherently or at all about how they are being affected by any particular treatment ...

... [T]here are three particular elements to be considered in relation to the compatibility of an applicant's health with his stay in detention: (a) the medical condition of the prisoner, (b) the adequacy of the medical assistance and care provided in detention, and (c) the advisability of maintaining the detention measure in view of the state of health of an applicant ..." (*Sławomir Musiał v. Poland*, judgment of 20 January 2009, §§ 87-88).

Aerts v. Belgium

30 July 1998

The applicant was arrested in November 1992 for an assault causing its victim to be certified unfit for work, having attacked his ex-wife with a hammer. He was placed in detention pending trial in the psychiatric wing of a prison. The applicant complained in particular of the conditions of detention in the psychiatric wing, for anything more than a short period, for persons requiring psychiatric treatment.

The European Court of Human Rights held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights. It observed that it had not been contested that the general conditions in the psychiatric wing in question were unsatisfactory and not conducive to the effective treatment of the inmates. The European Committee for the Prevention of Torture (CPT) in particular had considered that the standard of care given to the patients placed in the psychiatric wing fell below the minimum acceptable from an ethical and humanitarian point of view and that prolonging their detention there for lengthy periods carried an undeniable risk of a deterioration of their mental health. In the present case, however, there was no proof of a deterioration of the applicant's mental health, and the living conditions on the psychiatric wing did not seem to have had such serious effects on his mental health as would bring them within the scope of Article 3 of the Convention. Admittedly, it was unreasonable to expect a severely mentally disturbed person to give a detailed or coherent description of what he had suffered during his detention. However, even if it was accepted that the applicant's state of anxiety was caused by the conditions of detention, and even allowing for the difficulty he may have had in describing how these had affected him, it had not been conclusively established that the applicant had suffered treatment that could be classified as inhuman or degrading.

Romanov v. Russia

20 October 2005

The applicant, who suffered from a psychological disorder in the form of profound dissociative psychopathy, complained in particular about the conditions and length of his

detention in the psychiatric ward of a detention facility, where he had been held for a year, three months and thirteen days (in a smaller cell for about four-and-a-half months and in a larger cell for eleven months).
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the applicant's conditions of detention, in particular the severe overcrowding and its detrimental effect on the applicant's well-being, combined with the length of the period during which he had been detained in such conditions, had amounted to degrading treatment. While there was no indication that there had been a positive intention of humiliating or debasing the applicant, the Court nevertheless considered that these conditions of detention must have undermined the applicant's human dignity and aroused in him feelings of humiliation and debasement.

Novak v. Croatia

14 June 2007
The applicant complained in particular that, while he was in detention, there had been a lack of adequate medical treatment for his psychiatric condition, post-traumatic stress disorder.
The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, given in particular that the applicant had not provided any documentation to prove that his detention conditions had led to a deterioration of his mental health.

Kucheruk v. Ukraine

6 September 2007
The applicant, who was suffering from chronic schizophrenia, complained in particular of ill-treatment while in detention, notably handcuffing in solitary confinement, and of inadequate conditions of detention and medical care.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It found in particular that the handcuffing for a period of seven days of the applicant, who was mentally ill, without psychiatric justification or medical treatment had to be regarded as constituting inhuman and degrading treatment. Moreover, the applicant's solitary confinement and handcuffing suggested that the domestic authorities had not provided appropriate medical treatment and assistance to him.

Dybeku v. Albania

18 December 2007
The applicant had been suffering from chronic paranoid schizophrenia, for which he was treated in various psychiatric hospitals, for a number of years when he was sentenced to life imprisonment for murder and illegal possession of explosives in 2003. He was placed in a normal prison, where he shared cells with inmates who were in good health and where he was treated as an ordinary prisoner. His father and lawyer complained to the authorities that the prison hospital administration had failed to prescribe adequate medical treatment and that his health had deteriorated as a result. Their complaints were dismissed.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding in particular that the nature of the applicant's psychological condition made him more vulnerable than the average detainee and that his detention might have exacerbated his feelings of distress, anguish and fear. The fact that the Albanian Government admitted that the applicant had been treated like the other inmates, notwithstanding his particular state of health, also showed a failure to comply with the Council of Europe's recommendations on dealing with prisoners with mental illnesses. Furthermore, under **Article 46** (binding force and execution of judgments) of the Convention, the Court invited Albania to take the necessary measures, as a matter of urgency, to secure appropriate conditions of detention, and in particular

adequate medical treatment, to prisoners requiring special care on account of their state of health.

Rupa v. Romania

16 December 2008

Suffering from psychological disorders since 1990 and registered by the public authorities as having a second-degree disability on that account, the applicant alleged in particular that he had twice (in January 1998 and between March and June 1998 respectively) been detained in inhuman and degrading physical conditions at police stations

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. As regards the applicant's detention from 28 to 29 January, it observed in particular that he had spent the night following his arrest in the police holding room, which was furnished only with metal benches that were manifestly unsuitable for the detention of a person with the applicant's medical problems, and that he had not undergone a medical examination on that occasion. Having regard to the applicant's vulnerability, the Court considered that the state of anxiety inevitably caused by such conditions had undoubtedly been exacerbated by the fact that he had been guarded by the same police officers who had taken part in his arrest. As further regards the applicant's detention from 11 March to 4 June, the Court considered in particular that, in view of his behavioural disorders, which had manifested themselves immediately after he was remanded in custody and which could have endangered his own person, the authorities had been under an obligation to have him examined by a psychiatrist as soon as possible in order to determine whether his psychological condition was compatible with detention, and what therapeutic measures should be taken. In the present case, the Romanian Government had not shown that the measures of restraint applied to the applicant during his detention at the police station had been necessary. This treatment had further been exacerbated by the lack of appropriate medical attention in view of the applicant's vulnerable psychological state and the fact that he had been displayed in public, before the court, with his feet in chains.

Slawomir Musiał v. Poland

20 January 2009

The applicant, who has been suffering from epilepsy since his early childhood and more recently had been diagnosed with schizophrenia and other serious mental disorders, complained in particular that the medical care and treatment with which he had been provided during his detention had been inadequate.

The Court found that the conditions in which the applicant was detained were not appropriate for ordinary prisoners, still less for a person with a history of mental disorder and in need of specialised treatment. In particular, the authorities' failure during most of the applicant's time in detention to hold him in a suitable psychiatric hospital or a detention facility with a specialised psychiatric ward had unnecessarily exposed him to a risk to his health and must have resulted in stress and anxiety. It further also ignored the Council of Europe Committee of Ministers recommendations[1] in respect of prisoners suffering from serious mental-health problems. In sum, the inadequate medical care and inappropriate conditions in which the applicant was held had clearly had a detrimental effect on his health and well-being. Owing to its nature, duration and severity, the treatment to which he was subjected had to be qualified as inhuman and degrading. In sum, the inadequate medical care and inappropriate conditions in which the applicant was held had clearly had a detrimental effect on his health and well-being. Owing to its nature, duration and severity, the treatment to which he was subjected had to be qualified as inhuman and degrading, in **violation of Article 3** (prohibition of inhuman or

[1]. Recommendation R(98)7 of the Committee of Ministers of the Council of Europe to the Member States concerning the ethical and organisational aspects of health care in prison, and Recommendation Rec(2006)2 of 11 January 2006 on the European Prison Rules.

degrading treatment) of the Convention. Furthermore, under **Article 46** (binding force and execution of judgments) of the Convention, in view of the seriousness and structural nature of the problem of overcrowding and resultant inadequate living and sanitary conditions in Polish detention facilities, the Court held that necessary legislative and administrative measures were to be taken rapidly in order to secure appropriate conditions of detention, in particular for prisoners in need of special care because of their state of health. Having regard to the particular circumstances of the case and the urgent need to put an end to the violation of Article 3 of the Convention, the Court further held that Poland was to secure at the earliest possible date the applicant's transfer to a specialised institution capable of providing him with the necessary psychiatric treatment and constant medical supervision.

Raffray Taddei v. France

21 December 2010

Suffering from a number of medical conditions, including anorexia and Munchausen's syndrome (a psychiatric disorder characterised by the need to simulate an illness), the applicant complained about her continuing detention and about a failure to provide her with appropriate treatment for her health problems.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding in particular that the failure by the national authorities to sufficiently take into account the need for specialised care in an adapted facility, as required by the applicant's state of health, combined with her transfers, despite her particular vulnerability and with the prolonged uncertainty following her requests for deferment, had been capable of causing her distress that had exceeded the unavoidable level of suffering inherent in detention.

Cocaign v. France

3 November 2011

Suffering from severe psychiatric problems, the applicant was imprisoned in 2006 for attempted rape committed using a weapon. In January 2007 he killed a fellow-inmate before cutting open his chest and eating part of his lungs. Following an investigation by the prison authorities, two sets of proceedings were opened, one disciplinary, the other criminal. The applicant was sentenced to thirty years' imprisonment, with a minimum term of twenty years and an obligation to undergo treatment for eight years. He was also sentenced to forty-five-days' confinement in a disciplinary cell. The applicant alleged in particular that his confinement in a disciplinary cell and continued detention had constituted inhuman or degrading treatment in view of his psychiatric condition.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It considered in particular that it could not be inferred from the applicant's illness alone that his confinement in a punishment cell and the execution of that penalty could have constituted inhuman and degrading treatment and punishment in breach of Article 3 of the Convention. It also noted that the applicant was currently being provided with appropriate medical supervision during his detention, and accordingly was not being subjected to hardship of an intensity exceeding the unavoidable level of suffering inherent in detention.

Z.H. v. Hungary (application no. 28973/11)

8 November 2011

Deaf and mute, unable to use sign language or to read or write, and having a learning disability, the applicant complained in particular that his detention in prison for almost three months had amounted to inhuman and degrading treatment.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. Despite the authorities' laudable but belated efforts to address the applicant's situation, it found that his incarceration without requisite measures being taken within a reasonable time had resulted in a situation amounting to inhuman and degrading treatment. Given in particular the inevitable feelings of isolation and helplessness that flowed from his disabilities, and his lack of

comprehension of his situation and of the prison order, the Court observed that the applicant must have suffered anguish and a sense of inferiority, especially as a result of being cut off from the only person (his mother) with whom he could effectively communicate. Moreover, although the applicant's allegations of molestation by other inmates had not been supported by evidence, the Court noted that a person in his position would have faced significant difficulties in bringing any such incidents, had they occurred, to the wardens' attention, which could have resulted in fear and the feeling of being exposed to abuse.

G. v. France (no. 27244/09)

23 February 2012

The applicant, who suffers from a chronic schizophrenic-type psychiatric disorder, was taken into custody and subsequently sentenced to ten years' imprisonment. He was ultimately found by an Assize Court of Appeal to lack criminal responsibility. He alleged in particular that he had not received appropriate treatment between 2005 and 2009 although his mental disorder had called for proper treatment in a psychiatric hospital. He further argued that his return to prison each time his condition improved had amounted to inhuman and degrading treatment.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. Referring in particular to the Council of Europe Committee of Ministers' Recommendation Rec(2006)2 on the European Prison Rules, it took the view that the applicant's continued detention over a four-year period had made it more difficult to provide him with the medical treatment his condition required and had subjected him to hardship exceeding the unavoidable level of suffering inherent in detention. The Court also observed that alternately treating the applicant – in prison and in a psychiatric institution – and detaining him in prison had clearly impeded the stabilisation of his condition, demonstrating that he had been unfit to be detained from the standpoint of Article 3 of the Convention. It further noted that the physical conditions of detention in the psychiatric unit of the prison, where the applicant had been held on several occasions, had been described by the domestic authorities themselves as demeaning and could only have exacerbated his feelings of distress, anxiety and fear.

M.S. v. the United Kingdom (no. 24527/08)

3 May 2012

The applicant, a mentally-ill man, complained in particular about his being kept in police custody during a period of acute mental suffering while it had been clear to all that he was severely mentally ill and required hospital treatment as a matter of urgency.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding in particular that, although there had been no intentional neglect on the part of the police, the applicant's prolonged detention without appropriate psychiatric treatment had diminished his human dignity.

L.B. v. Belgium (no. 22831/08)

2 October 2012

This case concerned the virtually continuous detention, between 2004 and 2011, of a man suffering from mental health problems in psychiatric wings of two prisons, despite the authorities' insistence on the need for placement in a structure adapted to his pathology. The applicant complained mainly that the institution in which he was held was ill-adapted to the situation of people with mental-health problems.

The Court held that there had been a **violation of Article 5 § 1** (right to liberty and security) of the Convention, finding that, as a result of the maintaining of the applicant for seven years in a prison institution, when all the medical and psychiatric or social workers' opinions and competent authorities agreed that it was ill-adapted to his condition and re-adaptation, the conditions of the detention had been incompatible with its purpose. The Court emphasised in particular that the maintaining in a psychiatric wing was supposed to be temporary, while the authorities looked for an institution that was better adapted to the applicant's condition and re-adaptation. An inpatient

placement had in fact been suggested by the authorities as early as 2005. It further found that the place of detention was inappropriate and noted in particular that the applicant's therapeutic care was very limited in the prison.

Claes v. Belgium

10 January 2013

This case concerned the confinement of a mentally-ill sexual offender who had been found not to be criminally responsible in the psychiatric wing of an ordinary prison, without appropriate medical care, for more than fifteen years.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the national authorities had not provided the applicant with adequate care and that he had been subjected to degrading treatment as a result. The Court observed in particular that the applicant's continued detention in the psychiatric wing without the appropriate medical care and over a significant period of time, without any realistic prospect of change, had constituted particularly acute hardship causing distress which went beyond the suffering inevitably associated with detention. Whatever obstacles may have been created by the applicant's own behaviour, they did not dispense the State from its obligations in his regard by virtue of the position of inferiority and powerlessness typical of patients confined in psychiatric hospitals and even more so of those detained in a prison setting. In this judgment the Court further stressed that the applicant's situation stemmed in reality from a structural problem: on the one hand, the support provided to persons detained in prison psychiatric wings was inadequate and placing them in facilities outside prison often proved impossible either because of the shortage of places in psychiatric hospitals or because the relevant legislation did not allow the mental health authorities to order their placement in external facilities.

See also: ***Lankester v. Belgium***, judgment of 9 January 2014.

Ţicu v. Romania

1 October 2013

The applicant was serving a 20-year sentence for participating in armed robbery occasioning the victim's death. In childhood he suffered from an illness which led to considerable delays in his mental and physical development. He complained in particular about the poor conditions of detention in the various prisons where he had been serving his sentence, and especially about overcrowding and shortcomings in the provision of medical treatment.

In the light of the facts of the case taken as a whole, and considering in particular the conditions in which the applicant had been detained, the Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. Finding the living conditions in the institutions where the applicant had been held and continued to be held to be a particular cause for concern, it considered that such conditions, which would be inadequate for any person deprived of his or her liberty, were especially so in the case of someone like the applicant, on account of his mental health problems and the need for appropriate medical supervision. The Court also noted that the relevant recommendations of the Committee of Ministers of the Council of Europe to member States, namely Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison and Recommendation Rec(2006)2 on the European Prison Rules, advocated that prisoners suffering from serious mental health problems should be kept and cared for in a hospital facility which was adequately equipped and possessed appropriately trained staff.

Bamouhammad v. Belgium

17 November 2015

Suffering from Ganser syndrome (or "prison psychosis"), the applicant alleged that he had been subjected while in prison to inhuman and degrading treatment which had affected his mental health. He also complained about a lack of effective remedies.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the level of seriousness required for treatment to be regarded as degrading, within the meaning of Article 3, had been exceeded in the applicant's case. The Court noted in particular that the need for a psychological supervision of the applicant had been emphasised by all the medical reports. However, his endless transfers had prevented such supervision. According to the experts, his already fragile mental health had not ceased to worsen throughout his detention. The Court concluded that the prison authorities had not sufficiently considered the applicant's vulnerability or envisaged his situation from a humanitarian perspective. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) **taken together with Article 3**, finding that the applicant had not had an effective remedy by which to submit his complaints under Article 3.

Murray v. the Netherlands

26 April 2016 (Grand Chamber)

This case concerned the complaint by a man convicted of murder in 1980, who consecutively served his life sentence on the islands of Curaçao and Aruba (part of the Kingdom of the Netherlands) – until being granted a pardon in 2014 due to his deteriorating health –, about his life sentence without any realistic prospect of release. The applicant – who in the meantime passed away[2] – notably maintained that he was not provided with a special detention regime for prisoners with psychiatric problems.

The Court held that there had been a **violation of Article 3** of the Convention, finding that the applicant's life sentence had not *de facto* been reducible. It observed in particular that although he had been assessed, prior to being sentenced to life imprisonment, as requiring treatment, he had never been provided with any treatment for his mental condition during the time he was imprisoned. The opinions of the domestic court advising against his release showed that there was a close link between the persistence of the risk of his reoffending on the one hand and the lack of treatment on the other. Consequently, at the time he lodged his application with the Court, any request by him for a pardon was in practice incapable of leading to his release. In this case the Court also underlined that States were under an obligation to provide detainees suffering from health problems – including mental health problems – with appropriate medical care.

W.D. v. Belgium (application no. 73548/13)

6 September 2016

This case concerned a sex offender suffering from mental disorders who was detained indefinitely in a prison psychiatric wing. The applicant complained that he had been detained in a prison environment for more than nine years without any appropriate treatment for his mental condition or any realistic prospect of reintegrating into society. He also complained that his deprivation of liberty and continued detention were unlawful. He lastly submitted that he had had no effective remedies by which to complain of the conditions of his detention.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the applicant had been subjected to degrading treatment by having been detained in a prison environment for more than nine years, without appropriate treatment for his mental condition and with no prospect of reintegrating into society; this had caused him particularly acute hardship and distress of an intensity exceeding the unavoidable level of suffering inherent in detention. The Court also held that there had been a **violation of Article 5 § 1** (right to liberty and security) of the Convention, finding that the applicant's detention since 2006 in a facility ill-suited to his condition had broken the link required by Article 5 § 1 (e) between the purpose and the practical conditions of detention, noting that the reason for the applicant's detention in a prison psychiatric wing was the structural lack of alternatives.

2. Two of his relatives subsequently pursued his case before the Court.

The Court further held that there had been a **violation of Article 5 § 4** (right to speedy review of the lawfulness of detention) and a **violation of Article 13** (right to an effective remedy) of the Convention **in conjunction with Article 3**, finding that the Belgian system, as in operation at the time of the events, had not provided the applicant with an effective remedy in practice in respect of his Convention complaints – in other words, a remedy capable of affording redress for the situation of which he was the victim and preventing the continuation of the alleged violations. Lastly, finding that the applicant's situation had originated in a structural deficiency specific to the Belgian psychiatric detention system, the Court, in accordance with **Article 46** (binding force and execution of judgments) of the Convention, held that Belgium was required to organise its system for the psychiatric detention of offenders in such a way that the detainees' dignity was respected.

Rooman v. Belgium

31 January 2019 (Grand Chamber)

This case concerned the question of the psychiatric treatment provided to a sex offender who had been in compulsory confinement since 2004 on account of the danger that he poses and the lawfulness of his detention. The applicant complained that he had not received the psychological and psychiatric treatment required by his mental-health condition. He also alleged that the lack of treatment was depriving him of the prospect of an improvement in his situation and that, as a result, his detention was unlawful.

The Grand Chamber held that from the beginning of 2004 until August 2017 there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, and that from August 2017 onwards there had been **no violation of Article 3**. It found in particular that the national authorities had failed to provide treatment for the applicant's health condition from the beginning of 2004 to August 2017, and that his continued detention without a realistic hope of change and without appropriate medical support for a period of about thirteen years had amounted to particularly acute hardship, causing him distress of an intensity exceeding the unavoidable level of suffering inherent in detention. In contrast, the Court held that since August 2017 the authorities had shown a real willingness to remedy the applicant's situation by undertaking tangible measures, and that the threshold of severity required to bring Article 3 into play had not been reached. The Grand Chamber also held that from the beginning of 2004 until August 2017 there had been a **violation of Article 5** (right to liberty and security) of the Convention and that from August 2017 onwards there had been **no violation of Article 5**. In that regard, the Court decided in particular to refine its case-law principles, and to clarify the meaning of the obligation on the authorities to provide treatment to persons placed in compulsory confinement. The Court then held that the applicant's deprivation of liberty during the period from the beginning of 2004 to August 2017 had not taken place in an appropriate institution which was capable of providing him with treatment adapted to his condition, as required by Article 5 § 1. In contrast, it found that the relevant authorities had drawn the necessary conclusions from the Chamber judgment of 18 July 2017 and had put in place a comprehensive treatment package, leading it to conclude that there had been no violation of this provision in respect of the period since August 2017.

Strazimiri v. Albania

21 January 2020

This case 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. The applicant complained in particular that the conditions of his detention, including the provision of medical care, had been inadequate. He also submitted 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.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention because of inadequate living conditions in the prison hospital where the applicant was detained and insufficient psychiatric care. It further held that there had been **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. Lastly, under **Article 46** (binding force and execution of judgments) of the Convention, the Court noted 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. Finding that that was in breach of its domestic statutory obligations and pointed to a structural problem, the Court also held that the authorities should not only ensure that the applicant received psychotherapy, not just drugs, but also create an appropriate institution for those in his situation.

Venken and Others v. Belgium

6 April 2021

This case concerned applications related to the compulsory confinement of five Belgian nationals in the psychiatric wings of ordinary prisons, and followed on from the pilot judgment *W.D. v. Belgium* (see above). The applicants alleged that they had not received therapeutic care that was appropriate to their mental-health condition and complained of the lack of an effective remedy in order to bring about a change in their situation.

The Court held that there had been a **violation of Articles 3** (prohibition of inhuman or degrading treatment) **and 5 § 1** (right to liberty and security) of the Convention on in respect of three applicants. It noted, in particular, that when their applications were lodged, the five applicants had been detained in the psychiatric wings of ordinary prisons, where they did not receive appropriate therapy. They were now all accommodated in an institution that was in principle appropriate for their mental health conditions. Their detention in conditions breaching Articles 3 and 5 § 1 of the Convention had ended. In this connection, the Court found that the compensation awarded by the domestic courts to the three applicants in question did not cover the entire period during which they had been held in prison psychiatric wings, without a realistic hope of change and without appropriate medical support. In the Court's view, this significant period had subjected them to particularly acute hardship, causing distress of an intensity exceeding the unavoidable level of suffering inherent in detention. The Court also held that there had been a **violation of Article 5 § 4** (right to a speedy decision on the lawfulness of detention) of the Convention in respect of three applicants, and a **violation of Article 13** (right to an effective remedy) of the Convention **taken together with Article 3** in respect of two of these same applicants. It held, however, that there had been **no violation of Article 5 § 4** (right to a speedy decision on the lawfulness of detention), **and of Article 13** (right to an effective remedy) taken together with Article 3, in respect of two applicants who complained about proceedings which were conducted following the entry into force of the 2014 Compulsory Confinement Act.

Sy v. Italy

24 January 2022[3]

This case concerned the fact that the applicant, who suffered from a personality disorder and bipolar disorder, had remained in detention in an ordinary prison despite domestic court decisions stating that his mental health was incompatible with such detention and ordering his transfer to a Residential Centre for the enforcement of preventive measures (REMS), and later to a prison psychiatric service. The applicant submitted in particular

[3]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights..

that his continued detention in an ordinary prison had prevented him from benefiting from therapeutic provision.
The Court held, inter alia, that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in respect of the applicant. It noted, in particular, that the applicant's mental condition had been incompatible with detention in prison and that, despite the clear and unequivocal indications by the domestic courts, he had remained in an ordinary prison for almost two years. It further transpired from the case file that the applicant had not benefited from any overall medical provision for his illness aimed at remedying his health problems or preventing their aggravation, all in a general context of poor conditions of detention. The Court also held that there had been a **violation of Article 34** (right of individual application) of the Convention in the present case. In this regard, it noted, in particular, that, as it had emphasised on several occasions in the past, Governments should organise their prison systems in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties. The Court considered therefore that it was incumbent on the Italian Government, in the absence of an REMS place, to find an appropriate alternative solution, as it had in fact explicitly stated in an interim measure issued under Rule 39 (interim measures) of the Rules of Court.

Prisoners with suicidal tendencies

Kudla v. Poland

26 October 2000 (Grand Chamber)
The applicant, who suffered from chronic depression and twice tried to commit suicide, complained in particular that he was not given adequate psychiatric treatment in detention.
The Court found that the suicide attempts could not be linked to any discernible shortcoming on the part of the authorities and it observed that the applicant had been examined by specialist doctors and frequently received psychiatric assistance. While the Court did thus **not** find a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, it underlined that under this provision the State had to ensure that the manner of detention did not subject a prisoner to hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that his health and well-being were adequately secured by providing him with the requisite medical assistance.

Keenan v. the United Kingdom

3 April 2001
The applicant alleged in particular that her son – who had been receiving intermittent anti-psychotic medication for several years and whose medical history included symptoms of paranoia, aggression, violence and deliberate self-harm – had died from suicide in prison due to a failure to protect his life by the prison authorities and that he had suffered inhuman and degrading treatment due to the conditions of detention imposed on him.
The Court held that there had been **no violation of Article 2** (right to life) of the Convention, finding that it was not apparent that the authorities had omitted any step which should have reasonably been taken. It noted in particular that schizophrenics suffered from a condition in which the risk of committing suicide was well-known and high. However, while it was common ground that the applicant's son was mentally ill, no formal diagnosis of schizophrenia provided by a psychiatric doctor had been submitted to the Court. It could not therefore be concluded that he was at immediate risk throughout the period of detention, although the variability of his condition required that he be monitored carefully. On the whole, the prison authorities had also made a reasonable response to the applicant's son's conduct, placing him in hospital care and under watch when he had shown suicidal tendencies. The Court further held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the

Convention. It found in particular that the lack of effective monitoring of the applicant's son's condition and the lack of informed psychiatric input into his assessment and treatment disclosed significant defects in the medical care provided to a mentally-ill person known to be a suicide risk. The belated imposition on him in those circumstances of a serious disciplinary punishment, which may well have threatened his physical and moral resistance, was not compatible with the standard of treatment required in respect of a mentally-ill person.

Gennadiy Naumenko v. Ukraine

10 February2004

The applicant was sentenced to death in 1996. In June 2000 the sentence was commuted to one of life imprisonment, which he is currently serving. He alleged in particular that during his time in prison from 1996 to 2001 he had been subjected to inhuman and degrading treatment, notably that he had been wrongfully forced to take medication.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. No matter how disagreeable, therapeutic treatment could not in principle be regarded as contravening Article 3 of the Convention if it was persuasively shown to be necessary. From the evidence of the witnesses, the medical file and the applicant's own statements it was clear that the applicant was suffering from serious mental disorders and had twice made attempts on his own life. He had been put on medication to relieve his symptoms. In that connection, the Court considered it highly regrettable that the applicant's medical file contained only general statements that made it impossible to determine whether he had consented to the treatment. However, it found that the applicant had not produced sufficient detailed and credible evidence to show that, even without his consent, the authorities had acted wrongfully in making him take the medication. In the instant case, the Court did not have sufficient evidence before it to establish beyond reasonable doubt that the applicant had been forced to take medication in a way that contravened Article 3 of the Convention.

Rivière v. France

11 July 2006

The applicant complained about his continued imprisonment in spite of his psychiatric problems – he had been diagnosed with a psychiatric disorder involving suicidal tendencies and the experts were concerned by certain aspects of his behaviour, in particular a compulsion towards self-strangulation – which required treatment outside the prison.

The Court held that the applicant's continued detention without appropriate medical supervision had constituted inhuman and degrading treatment in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It observed in particular that prisoners with serious mental disorders and suicidal tendencies required special measures geared to their condition, regardless of the seriousness of the offence of which they had been convicted.

Renolde v. France

16 October 2008

This case concerned the placement for forty-five days and the suicide in a disciplinary cell of the applicant's brother who was suffering from acute psychotic disorders capable of resulting in self-harm. The applicant alleged that the French authorities had not taken the necessary measures to protect her brother's life and that his placement in a punishment cell for forty-five days had been excessive in view of his mental fragility.

Despite a previous suicide attempt and the diagnosis of the applicant's brother's mental condition, there had not been a discussion of whether he should be admitted to a psychiatric institution. Further, the lack of supervision of his daily taking of medication had played a part in his death. In the circumstances of the case, the Court found that the authorities had failed to comply with their positive obligations to protect the

applicant's brother's right to life, in **violation of Article 2** (right to life) of the Convention. The Court further held that there had been a **violation of Article 3** (prohibition of inhuman or degrading punishment or treatment) of the Convention, because of the severity of the disciplinary punishment imposed on the applicant's brother, which was liable to break his physical and moral resistance. He had been suffering from anguish and distress at the time. Indeed, eight days before his death his condition had so concerned his lawyer that she had immediately asked the investigating judge to order a psychiatric assessment of his fitness for detention in a punishment cell. The penalty imposed on the applicant's brother was, therefore, not compatible with the standard of treatment required in respect of a mentally ill person and constituted inhuman and degrading treatment and punishment.

Güveç v. Turkey

20 January 2009

The applicant, aged fifteen at the relevant time, had been tried before an adult court and ultimately found guilty of membership of an illegal organisation. He was held in pre-trial detention for more than four-and-a-half years in an adult prison, where he did not receive medical care for his psychological problems and made repeated suicide attempts.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention: given his age, the length of his detention with adults and the authorities' failure to provide adequate medical care or to take steps to prevent his repeated suicide attempts, the applicant had been subjected to inhuman and degrading treatment.

Coselav v. Turkey

9 October 2012

This case concerned a 16-year-old juvenile's suicide in an adult prison. His parents alleged that the Turkish authorities had been responsible for the suicide of their son and that the ensuing investigation into his death had been inadequate.
The Court held that there had been a **violation of Article 2** (right to life) of the Convention under both its **substantive and procedural limbs**. It found on the one hand that the Turkish authorities had not only been indifferent to the applicants' son's grave psychological problems, even threatening him with disciplinary sanctions for previous suicide attempts, but had been responsible for a deterioration of his state of mind by detaining him in a prison with adults without providing any medical or specialist care, thus leading to his suicide. On the other hand, the Turkish authorities had failed to carry out an effective investigation to establish who had been responsible for the applicants' son's death and how.

Jasinska v. Poland

1 June 2010

The case concerned the applicant's grandson's suicide while serving a prison sentence for theft with aggravating circumstances. The applicant alleged in particular that, as a result of negligence on the part of the prison authorities, her grandson was able to steal medicines and kill himself.
The Court held that there had been a **violation of Article 2** (right to life) of the Convention, finding that the Polish authorities had failed to comply with their obligation to protect the life of the applicant's grandson. It observed in particular that the prison authorities had been informed of the deterioration in his health and should legitimately have considered him as a suicide risk rather than simply renewing his medical prescriptions. In the present case, the Court noted a clear deficiency in a system that had allowed a first-time prisoner, who was mentally fragile and whose state of health had deteriorated, to gather a lethal dose of drugs without the knowledge of the medical staff responsible for supervising the ingestion of his medicine, and to subsequently commit suicide. It also pointed out that the authorities' responsibility was not confined to prescribing medicines, but also consisted in ensuring that they were properly taken, in particular in the case of mentally disturbed prisoners.

De Donder and De Clippel v. Belgium

6 December 2011

The applicants were the parents of a young man undergoing psychiatric treatment who had committed suicide while placed in the ordinary section of a prison. They complained in particular about their son's detention and his placement in segregation. They further maintained that in such circumstances it had been foreseeable that he would lose his self-control and attempt to kill himself.

While remaining aware both of the Belgian State's efforts to assist the applicant's son – who had, for example, had access to specialist clinics, where he had received support and therapy appropriate to his condition – and of the serious difficulties faced by the prison authorities and medical staff on a daily basis, the Court nevertheless concluded that there had been a **violation of Article 2** (right to life) of the Convention in its **substantive aspect**. It observed in particular that the applicants' son had been detained under the Social Protection Act, which provided that the persons to whom it was applicable were subject not to the rules on ordinary detention but to the rules on compulsory admission, so that they could be given the psychological and medical support their condition required. In addition, the decision by the deputy public prosecutor recalling him to prison had specified that he should be admitted to the psychiatric wing. Accordingly, the applicants' son should never have been held in the ordinary section of a prison. The Court could further not find any evidence to suggest that the investigation conducted in the present case had not satisfied the requirements of an effective investigation, and it therefore held that there had been **no violation of Article 2** of the Convention in its **procedural aspect**.

Ketreb v. France

19 July 2012

This case concerned the suicide in prison, by hanging, of a drug addict. The applicants – his sisters – alleged that the French authorities had failed to take proper steps to protect their brother's life when he was placed in the prison's disciplinary cell. They also complained that the disciplinary measure applied to their brother was unsuitable for a person in his state of mind.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention, finding that the French authorities had failed in their positive obligation to protect the applicants' brother's right to life. It observed in particular that it must have been clear to both the prison authorities and the medical staff that his state was critical, and placing him in a disciplinary cell had only made matters worse. That should have led the authorities to anticipate a suicidal frame of mind, as had already been noted during a previous stay in the punishment block some months earlier, and to alert the psychiatric services, for example. Nor had the authorities set in place any special measures, such as appropriate surveillance or regular searches, which might have found the belt he used to commit suicide. The Court also held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the applicants' brother's placement in a disciplinary cell for two weeks was not compatible with the level of treatment required in respect of such a mentally disturbed person.

Association for the Defence of Human Rights in Romania – Helsinki Committee on behalf of Ionel Garcea v. Romania

24 March 2015

This case concerned access to proper medical treatment for a mentally-ill prisoner whilst in detention – on several occasions he had been taken to hospital for surgery after he had inserted a nail into his forehead and had also attempted suicide – and the difficulties faced by a non-governmental organisation to lodge an effective complaint following his death.

The Court found that the ineffectiveness of the investigation and the time it had taken the authorities to establish the circumstances of the prisoner's death amounted to a **procedural breach of Article 2** (right to life) of the Convention. It noted in particular

that the court of appeal had found that the investigation had not been thorough since essential questions had not been answered by the prosecutor. Moreover, the prosecutor's office itself had failed to deal with the complaint of ill-treatment in detention lodged by the applicant association. The Court further found **no violation** under the **substantive aspect of Article 2** of the Convention owing to a lack of medical evidence establishing the responsibility of the State beyond reasonable doubt.

Isenc v. France

4 February 2016

This case concerned the applicant's son's suicide 12 days after he was admitted to prison. The applicant alleged a violation of his son's right to life.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention, finding that in the present case, although provided for in the domestic law, the arrangements for collaboration between the prison and medical services in supervising inmates and preventing suicides had not worked. The Court noted in particular that a medical check-up of the applicant's son, when he was admitted was a minimum precautionary measure. However, even though the French Government submitted that the applicant's son had had a medical consultation, it failed to furnish any document corroborating that submission and thus had not proved that the latter had been examined by a doctor. In the absence of any proof of an appointment with the prison medical service, the Court considered that the authorities had failed to comply with their positive obligation to protect the applicant's son's right to life.

Jeanty v. Belgium

31 March 2020

The applicant, who was suffering from a psychological disorder and made several suicide attempts while in pre-trial detention in Arlon Prison (Belgium) alleged in particular that the Belgian 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. He also complained of a lack of appropriate medical care during his detention, about the treatment to which he had been subjected while in isolation and of the lack of an effective investigation.

The Court considered that Article 2 (right to life) of the Convention was applicable in the present case because the very nature of the applicant's actions (repeated suicide attempts) had put his life at real and imminent risk. It went on, however, to find that the measures taken by the authorities had actually prevented the applicant from committing suicide and therefore held that there had been **no violation of Article 2** in the applicant's case. The Court held, on the other hand, that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the applicant 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. Moreover, the investigation in that regard had been ineffective.

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