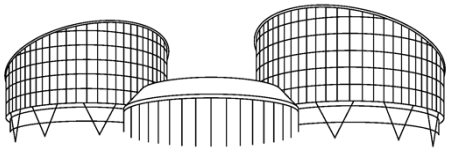

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF VUKUŠIĆ v. CROATIA

(Application no. 37522/16)

JUDGMENT

Art 3 (substantive) • Inhuman and degrading treatment • Unjustified prolonged placement of prisoner, without clothing, in a specially secured padded cell and with lights continuously on • Period of time held indicated purpose of stay punitive • Restraining of applicant's hands and ankles for four days not necessary and appeared to be contrary to domestic law Art 3 (substantive) • Degrading treatment • Inadequate prison conditions

STRASBOURG

14 November 2023

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Vukušić v. Croatia,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Jovan Ilievski,
Egidijus Kūris,
Saadet Yüksel,
Lorraine Schembri Orland,
Diana Sârcu,
Davor Derenčinović*, judges*,
and Hasan Bakırcı, *Section Registrar,*

Having regard to:

the application (no. 37522/16) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Croatian national, Mr Zoran Vukušić ("the applicant"), on 24 June 2016;

the decision to give notice to the Croatian Government ("the Government") of the complaints concerning his prolonged confinement in a specially secured cell and alleged ill-treatment in Split Prison, as well as his conditions of detention in Split and Zagreb Prisons, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 17 October 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicant's prolonged confinement in a specially secured cell and his alleged ill-treatment by prison guards in Split Prison, as well as the conditions of his detention in Zagreb and Split Prisons. The applicant complains of a violation of Article 3 of the Convention.

THE FACTS

2. The applicant was born in 1979 and lives in Zagreb. He was represented by Ms L. Horvat, a lawyer practising in Zagreb.

3. The Government were represented by their Agent, Ms Š. Stažnik.

4. The facts of the case may be summarised as follows.

5. The applicant was detained in Zagreb Prison between 28 May and 29 June 2011, and then again between 21 February 2012 and 27 March 2013. All cells that he stayed in in that prison measured 19.53 sq.m. and were shared by three to seven inmates at various times. The cells also had a sanitary facility of 1.57 sq.m. partitioned from the rest of the cell by a 180 cm high wall.

6. Between 29 June 2011 and 21 February 2012, the applicant was detained in Split Prison. From 29 June 2011 until 13 July 2011, he stayed in a cell measuring 27.74 sq.m. including sanitary facilities with another seven to nine inmates. From 14 July 2011 until 8 January 2012, he stayed in a cell measuring 17.64 sq.m. including sanitary facilities with four to five other inmates.

7. Throughout his detention, the applicant committed a number of disciplinary offences, and his behaviour was frequently assessed as "unsatisfactory" by the prison authorities.

8. According to the applicant, he had started a hunger strike because he wished to be transferred to Zagreb Prison. At around 5 p.m. on 18 January 2012 he was beaten up by the prison guards, as a result of which he lost consciousness and had hit his head on the floor. He was eventually taken to hospital where a head scan showed that he had a haematoma on his head and a concussion. The applicant subsequently stated that the said incident may have happened on 19 or 20 January 2012 (see paragraph 53 below).

9. According to the Government, on 20 January 2012 at 3.50 p.m. the prison guards found the applicant in the bathroom of his cell, undressed, in front of a shattered mirror, which he claimed to have broken in order to harm himself and threatened suicide. His three cell inmates confirmed that he had previously asked them for a razor and that he had fallen on the floor. The prison guards then forcibly removed the applicant from the cell, while he continued yelling threats and requesting to be transferred to Zagreb. The applicant was then taken to hospital where he was diagnosed with a head contusion, after which he was returned to prison.

10. In a handwritten note drafted on 20 January 2012, the applicant stated that he had refused food for the second day in a row because he had wished to be transferred to another prison closer to his family and that, while being forcibly transferred from one cell to another on that day, he had lost consciousness and hit his head on the floor.

11. On 20 January 2012 at 3.55 p.m., with a view to preventing further injuries to himself and harassment of other inmates, the prison governor ordered that the applicant be placed in a specially secured cell without dangerous items, so-called "rubber cell" ("*gumenjara*") for 48 hours.

12. According to the applicant, the specially secured cell was extremely dirty with faeces, the light was on at all times so that he could not sleep, and he was held there completely naked. It was wintertime, there was no heating, and the ventilation was on the entire time, so that he was shivering. Since he had irregular access to the sanitary facilities, he was forced to urinate and defecate on himself.

13. According to the Government, the cell was regularly cleaned by the inmates, but the applicant refused to clean after himself. The cell also had floor heating and was also heated from above from the floor heating of the upper floor. During the nights the guards checked on the applicant several

times and took him to use the sanitary facilities whenever necessary. He was also regularly seen by a doctor, although he frequently refused examination.

14. Due to the applicant's lack of cooperation with the authorities and further threats of self-harm, his confinement in the specially secured cell was prolonged every 48 hours until 31 January 2012, when he was taken to the Zagreb Prison Hospital.

15. After returning to Split Prison on 16 February 2012, the applicant was placed in a regular cell. After he refused dinner and swallowed two batteries and a piece of a remote control, he was taken to hospital where he refused examination.

16. On 17 February 2012, after the applicant again threatened with swallowing further objects, he was again placed in the specially secured cell, naked and with the lights turned on constantly, this time with his hands and legs restrained by handcuffs and belts. The applicant claims that he could not sleep at all due to the light and his swollen hands and position of his arms. The restraining measure was regularly prolonged every 12 hours until 20 February 2012 and his placement in the special cell was prolonged until 21 February 2012, when the applicant was transferred to Zagreb Prison.

17. In September 2012 the applicant filed a criminal complaint alleging that the Split Prison guards had committed various criminal acts against him, mainly by putting him in the "rubber cell" and keeping him there in appalling conditions for an inordinate amount of time. He also sought that security footage be obtained from the prison in order to "ensure evidence of criminal acts committed by the Split Prison staff". Having conducted criminal inquiries, on 6 December 2012 the Split State Attorney's Office dismissed his complaint.

18. The applicant also filed several complaints concerning his prison conditions with various authorities, to no avail.

19. On 26 April 2013 the applicant lodged a civil action against the State claiming damages for his poor conditions of detention and for the "torture" he had been subject to by the prison guards on 18 January 2012. By a judgment dated 22 May 2015, the Zagreb Municipal Civil Court (*Općinski građanski sud u Zagrebu*) dismissed his claim as ill-founded, among other things because the applicant had failed to attend the court hearing to which he had been summoned to give his statement as well as he had failed to prove the occurrence of any damage.

20. His appeal against that judgment was dismissed by the Zagreb County Court (*Županijski sud u Zagrebu*) on 15 March 2016 and his subsequent constitutional complaint was dismissed on 9 October 2018 by the Constitutional Court (*Ustavni sud Republike Hrvatske*). The latter decision was served on the applicant's lawyer on 1 February 2019.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC MATERIALS

21. The relevant domestic law and practice are set out in *Ulemek v. Croatia* (no. 21613/16, §§ 38-57, 31 October 2019).

22. The relevant provisions of the Execution of Criminal Sanctions Act (*Zakon o izvršavanju kazne zatvora*, Official Gazette no. 128/99 with subsequent amendments), as in force at the material time, read as follows:

Specially secured measures
Section 135

"1. Special order and security measures may be imposed on an inmate in respect of which there is a risk, which cannot be eliminated in other ways, of absconding, committing violence against persons or property, of suicide or self-harm, or of jeopardising order and security.

2. Special order and security measures are:

...

4) placement in a specially secured cell without dangerous items,

5) placement in a strict supervision ward,

6) restraining hands and, if necessary, feet using handcuffs

..."

Execution of specially secured measures
Section 136

"1. Special security measures ... shall be imposed by the prison governor...

...

4. The measures referred to in points 4, 5, 6, 7 and 8 of section 135(2) shall be executed under medical supervision.

...

8. Placement in a specially secured room without dangerous items may last no longer than 48 hours at a time. The prison governor shall obtain consent of a doctor for the execution of this measure within six hours from the beginning of its enforcement During the execution of this measure, the inmate is guaranteed the ability to fulfil their physiological needs...."

Restraining
Section 138

"1. Restraining an inmate using handcuffs may not be imposed as punishment, but solely for the purpose of restricting movement.

2. An inmate may be restrained using handcuffs for no more than 12 hours in a 24-hour period."

23. The relevant part of the 2013 Annual Report of the Ombudsperson of the Republic of Croatia (*Izvješće pučke pravobraniteljice za 2013. godinu*) reads as follows:

> "Although the national legislation governing the treatment of persons deprived of liberty and the conditions in which they are detained are generally good, there is also room for improvement... [T]he reasons for this lie in its essential shortcomings relating, for example, to the implementation of special measures to maintain order and security, the implementation of disciplinary measures, defining disciplinary offences, but also many others. Based on the data we have collected during visits and dealing with prisoners' complaints, we believe that the implementation of special measures to maintain order and security is insufficiently clearly prescribed, in particular if it is borne in mind that the application and execution of these measures further restrict rights of the prisoner. For example, the implementation of a special measure to maintain order and security – accommodation in a specially secured room without dangerous items – is prescribed only in one paragraph [of the law], which does not set out the purpose of carrying out this measure, nor is it clear whether it is carried out for security reasons or medical reasons and whether it has a punitive or preventive character. Therefore, in practice, it happens that placement in a specially secured room without dangerous items is applied to a prisoner who threatens to commit suicide, which we consider absolutely unacceptable. Also, although [the law] stipulates that accommodation in a specially secured room without dangerous items can last a maximum of forty-eight hours at a time, in practice it is not clear what the interval must be between [two separate instances of] execution of this measure."

II. COUNCIL OF EUROPE MATERIALS

24. The relevant parts of the Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 September 2012, (CPT/Inf (2014)9), published on 18 March 2014, read as follows:

> "54. At Zagreb County Prison, in the course of 2012, the measure of placement of an inmate in a 'rubber room' had been applied 68 times, 49 of which had been for a period in excess of 40 hours (including two consecutive nights). Among the reasons for placement of inmates in 'rubber rooms', the notes in the official registers referred to 'refusal to obey orders' and 'violation of house rules'; these are clearly disciplinary offences.
>
> Further, according to the registers, placement in a 'rubber room' was always combined with two additional security measures (i.e. 'increased supervision' and ankle- and wrist-cuffs). All inmates met by the delegation who had been subjected to placement in a 'rubber room' confirmed that they had been ankle- and wrist-cuffed during the whole placement period (ankle- and wrist cuffs were attached together by a metal chain passing through a leather belt around the waist of the inmate). Such a state of affairs contravenes Article 138, paragraph 2, of the Croatian Law on the Execution of Criminal Sanctions, which allows for handcuffing of an inmate as a security measure *for a period not exceeding 12 hours per day.*
>
> Several inmates also claimed that they had been placed in the 'rubber room' in their underwear and that staff had turned the air-conditioning to cold. Such a situation, if confirmed, would amount to degrading treatment.

55. At Glina State Prison, the measure of placement of an inmate in a 'rubber room' had been applied ten times in the first nine months of 2012, three of which had lasted more than 48 hours, according to the registers. Unlike at Zagreb, the measure was not always combined with additional security measures, such as immobilisation with handcuffs. Prison staff at Glina State Prison had resorted twice to such placement over the preceding two months with the aim of persuading recalcitrant inmates to provide urine for drug tests ...

56. Placement of inmates in a 'rubber room' was generally ordered by prison officers and later communicated to the director. A doctor had to confirm within six hours whether the inmate was fit to undergo such a placement (as provided for by law). Further, medical checks took place every 24 hours, and prison officers were obliged to monitor the situation of the inmates every two hours. Registers consulted by the delegation confirmed that this was done. All the prisoners who had been subjected to the additional measure of cuffing while in the 'rubber room' stated that they had been uncuffed in order to eat their meals on a table in the corridor before being once again ankle- and wrist-cuffed in the 'rubber-room'. This in itself demonstrates that the security measure of cuffing was continued even after the inmate had calmed down.

57. The findings of the delegation clearly indicate that placement in a 'rubber-room' was at times resorted to by staff for punitive reasons. Further, the act of trussing up an inmate with ankle and wrist cuffs linked together via a metal chain attached to a belt around the waist, combined with the fact that such a measure was applied for prolonged periods and long after a prisoner had calmed down, could well be considered as inhuman treatment.

58. Placement of a prisoner in a 'rubber room' should last only until the person concerned has calmed down. Persons placed in a 'rubber room' should be regularly monitored (the frequency determined by the nature of the case) and the observation by prison officers clearly recorded in the register. As regards more specifically the placement inside a room of a prisoner likely to commit an act of self-harm, this should only be made upon the authorisation of the medical doctor, when all other measures have failed; and the removal of clothes and provision of rip-proof clothing should follow an individual risk assessment, and be authorised by the doctor.

The Committee recommends that the Croatian authorities fundamentally review the practice of placing inmates in 'rubber rooms' in all establishments, particularly at Zagreb County Prison, in the light of the above remarks."

25. The relevant parts of the Report to the Croatian Government on the visit to Croatia carried out by the CPT from 14 to 22 March 2017 (CPT/Inf (2018) 44), published on 2 October 2018, read as follows:

"59. As already mentioned in paragraph 28, once again the CPT's delegation reviewed the application of security measures at the prison establishments visited and in particular the placement of inmates in a room devoid of dangerous objects (i.e. a padded cell, also known as a 'rubber room' or *gumenjara*). At the outset of the visit, the Croatian authorities informed the CPT's delegation that an instruction had been issued in December 2016 by the prison administration on the alleged moratorium of the use of the so-called rubber-rooms in all prison establishments nationwide. In practice, the placement of inmates in a rubber room in order to contain over-agitated and violent inmates and to prevent the escalation of any incidents continued, and the management of the prison establishments visited were to various degrees not aware of any instructions from the prison administration on this subject.

At Osijek County Prison, in the course of 2016 there had been two instances of inmates being placed in the 'rubber room' (measuring 7.5 m2 with flickering artificial lighting) and two in the first three months of 2017. The measure was usually applied for a prolonged period of up to 50 hours with inmates ankle- and hand-cuffed, with the cuffs connected together via a metal chain attached to a leather waist belt, and wearing only their underwear. The reason for the placement was variously described as threats to commit suicide and self-injury, disturbance of the house rules, a 'fragile psychological state', and following attempts to escape. In one case, an inmate was placed in a rubber room hand-cuffed but after he had, according to the register, defecated in the rubber room and further assaulted an officer he was also ankle-cuffed. Despite being hand- and ankle-cuffed, he allegedly continued his aggressive behaviour towards staff and was pepper-sprayed in the face. In the view of the CPT, such treatment may be considered inhuman and degrading... To begin with, the CPT can see no justification in having to ankle- and hand-cuff a prisoner who is placed inside a rubber room. Further it is of concern to the Committee that the inmate was compelled to defecate in the rubber room and was not taken to a toilet; moreover, given that the inmate was handcuffed to a waist belt at the time of defecating and thus could not have taken off his clothes, it can be concluded that the inmate was actually naked or at least without his underwear in the rubber room. Finally, to administer pepper spray to a prisoner trussed up in the manner described above can only be for punitive reasons and the CPT considers that the staff members responsible should be investigated for the ill-treatment of this prisoner.

The prison doctor would visit the inmates within six hours in order to assess whether the inmate was fit to undergo such a placement (as provided for by law) and in some cases would order the transfer of the inmate to Zagreb Prison Hospital. That said, the prison doctor did not object to the hand- and ankle-cuffing of inmates placed in a 'rubber room'.

At Split County Prison, the two rubber rooms (measuring approximately 5 m2 and equipped with a call bell but lacking access to natural light) had not been used since the beginning of 2016; the CPT's delegation did not receive any allegation of informal use of the rubber rooms.

At Zagreb County Prison, the use of three rubber rooms located in modules 1, 4 and 7 had ceased according to the relevant registers after September 2012. Further, a multi-disciplinary team (composed of security and treatment staff, as well as a psychologist) would assess the necessity of the recourse to a security measure on a case by case basis and would make recommendations to the prison director. That said, the delegation received two recent credible allegations of placement of inmates in a rubber room for short periods for punitive reasons (for instances of disobedient behaviour and breach of good order). Both inmates had been placed naked or in their underwear as well as hand-cuffed behind their backs for periods of 30 to 60 minutes in a rubber room and in one case ankle-cuffs had been used by custodial staff. The two instances had not been recorded in the dedicated registers.

60. In the CPT's view, an agitated inmate who poses a serious danger to him-/herself or to others could be temporarily isolated in a calming down cell until he/she regains behavioural control only as a last resort when all other reasonable options (such as talking to the inmate in question) have failed to satisfactorily contain these risks. The duration of such a measure should be for the shortest possible time (usually minutes rather than hours) and the inmate should be immediately examined by a prison doctor in order to assess whether his/her mental state requires hospitalisation or whether any other measure is required in the light of the inmate's medical condition. The application of additional means of restraint such as ankle- and hand-cuffs, as well as pepper spray,

to an agitated inmate already placed in a rubber room has no justification. Further, in the view of the Committee it is unacceptable that inmates be placed in a rubber room in their underwear or even naked. Over-agitated inmates representing a danger for themselves or others should be provided with rip-proof clothing following an individual risk assessment and upon authorisation by the doctor. Any placement in a 'rubber room' should be recorded in a dedicated register, the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, and an account of any injuries sustained by the prisoner or staff. Finally, the person concerned should be given the opportunity to discuss his/her experience with a senior member of the health-care staff or another senior member of staff with appropriate training as soon as possible after the end of the application of the security measure in question.

The CPT recommends that the Croatian authorities adopt formal written guidelines on the use of rubber rooms, taking into account the above-mentioned criteria."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF DETENTION IN A SPECIALLY SECURED CELL

26. The applicant complained that his prolonged detention in the specially secured cell without dangerous items in Split Prison had amounted to inhuman and degrading treatment proscribed by Article 3 of the Convention, which reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

27. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

28. The applicant maintained that he had been placed in the so-called "rubber cell" although other less severe measure had been available, such as separation from other inmates. He was held there naked, with the lights and ventilation on at all times. Across the cell there was a hallway with large windows which were kept wide open so that the applicant shivering from cold. The cell was dirty and had traces of faeces of previous occupants. During his second stay in the said cell, his hands and ankles were tied in continuity for practically 70 hours, which had been contrary to domestic law.

29. The Government maintained that the applicant's placement in the specially secured cell had been lawful and necessary because the applicant had deliberately endangered his health, harassed other inmates and destroyed prison inventory, thereby jeopardising order and security in prison. During his second stay in the security cell, the applicant's hands and feet also had to be restrained because of a real risk of self-harm, or even suicide.

30. The Government further submitted that the security measure was regularly suspended prior to the expiry of its maximum duration period and then, after the officers established the continued reasons for its imposition, the measure was reimposed. The applicant was also regularly examined by a doctor and was allowed to regularly use the toilet located outside the security cell.

31. As regards the conditions in the specially secured cell, the Government explained that the cell had floor heating and that, being located on the first floor, it was also heated from about through the floor heating installed on the second floor. Furthermore, all prison cells were to be cleaned and maintained by the inmates themselves, but the applicant refused to keep the cell clean. However, he regularly fulfilled his physiological needs in the sanitary facility located next to the specially secured cell.

2. The Court's assessment

32. The Court reiterates that persons in custody are in a vulnerable position and the authorities are under a duty to protect them. Under Article 3 of the Convention the State must ensure that the manner and method of the execution of the measure of deprivation of liberty do not subject the person to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Valašinas v. Lithuania*, no. 44558/98, § 102, ECHR 2001-VIII, and *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI). When assessing conditions of detention, their cumulative effects as well as the applicant's specific allegations must be considered (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

33. More specifically, in cases of solitary confinement it is rather the proportionality of this measure and the conditions of the confinement which may be questionable under Article 3 of the Convention (see *Ramishvili and Kokhreidze v. Georgia*, no. 1704/06, § 82, 27 January 2009). In this connection, the Court reiterates that the States have a positive obligation to take all precautionary measures for the well-being of a detainee in order to diminish the opportunities for self-harm (see, *mutatis mutandis*, *Jashi v. Georgia*, no. 10799/06, § 62, 8 January 2013).

34. The Court notes that the present case does not concern a classic situation of solitary confinement, but rather the applicant's placement in a specially secured cell devoid of dangerous items allegedly in order to prevent

him from harming himself or others. The Court observes that the applicant was held in such a cell for two non-consecutive periods: first for twelve days in January 2012 and then for five days in February 2012, the second time with handcuffs and belts restraining his hands and ankles.

35. The Court further notes that specially secured cells devoid of dangerous items are special rooms, padded with rubber or other soft material aimed at preventing self-harm. The placement in such cells was at the material time regulated by section 135 of the Execution of Criminal Sanctions Act, listing it as one of security measures in prison (see paragraph 22 above). Section 136(8) of the Execution of Criminal Sanctions Act further provided that placement in such a secured cell was allowed for a maximum of 48 hours, although admittedly, it did not specify how much time, if any, needed to pass between two consecutive decisions on placement therein (compare the Croatian Ombudsperson's report cited at paragraph 23 above).

36. The Government sought to argue that the applicant's placement in the specially secured cell had been justified because there had been a real danger that he might act violently and harm himself or others.

37. However, while the Court can accept that, on the one hand, placement of an agitated prisoner in a cell without dangerous items may be a suitable solution to allow such a prisoner to calm down, it cannot see how such a purpose could justify prolonged periods of stay in such special cells (see also the CPT reports cited at paragraphs 24 and 25 above, which strongly criticised the Croatian prison authorities' use of specially secured cells for punitive purposes), in particular in the below described conditions (see paragraph 39 below).

38. The Court thus considers that, although there may have initially been valid reasons to place the applicant in a specially secured room in order to prevent him from self-harm, his stays in that cell for prolonged periods of time – 12 and 5 days, respectively – indicate that the purpose of his stay had been punitive and cannot be justified by reasons submitted by the Government (compare, *mutatis mutandis*, *Ciorap v. Moldova*, no. 12066/02, § 83, 19 June 2007).

39. As regards the conditions in the specially secured cell, although the Government disagreed with the applicant's description of freezing temperature by submitting that the cell had an installed heating, they did not dispute his allegations that he had been placed there naked or that the lights had remained on at all times preventing him from sleeping (see also the CPT's findings cited at paragraphs 24 and 25 above, in which the Croatian authorities had been invited to provide prisoners in such circumstances with rip-proof clothing). The Court has already held that to deprive an inmate of clothing was capable of arousing feelings of fear, anguish and inferiority capable of humiliating and debasing him (see *Hellig v. Germany*, no. 20999/05, § 56, 7 July 2011). The foregoing must have thus further exacerbated the applicant's already vulnerable situation.

40. Finally, the Court agrees with the CPT that restraining the applicant's hands and ankles in the specially secured cell for four days does not appear to have been necessary since he had already been placed in a space devoid of dangerous items preventing self-harm (see the CPT's observations with regards to such measures cited at paragraphs 24 and 25 above). Moreover, the restraining measure also appears to have been applied contrary to section 138(2) of the Execution of Criminal Sanctions Act, which allowed for handcuffing of an inmate as a security measure for a period not exceeding twelve hours within a 24-hour period (see paragraph 22 above).

41. In view of the foregoing, the Court considers that the applicant's prolonged placement in the specially secured cell in the described conditions for a total period of 17 days amounted to inhuman and degrading treatment.

42. There has accordingly been a violation of Article 3 of the Convention on that account.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF PRISON CONDITIONS

43. The applicant complained that his prison conditions had been inhuman and degrading, contrary to Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

44. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' observations

45. The applicant complained that his conditions of detention in Zagreb and Split Prisons had been inhuman and degrading. In particular, he submitted that in both prisons he had had insufficient personal space, the conditions of hygiene had been appalling and the food had been of poor quality.

46. Specifically, in Zagreb Prison he had stayed in an overcrowded cell for twenty-two hours per day, from which the sanitary facilities had been only partially separated by a partition, which had made the smells unbearable and privacy non-existent. The meals had also been served in the same room. In Split Prison, the applicant had been placed in overcrowded cells with smokers

and inmates suffering from Hepatitis C. Outside exercise was limited to less than two hours per day, and he was allowed to shower only once a week.

47. The Government contested those allegations. As regards Zagreb Prison, they maintained that during his first month there the applicant had been in the Diagnostics Centre and thus often stayed outside his cell for interviews with the professional staff and for medical examinations. During his second stay in that facility, between 21 February 2012 and 4 January 2013, he had at his disposal between 2.79 and 4.8 sq.m. of personal space. The periods where he had had less than 3 sq.m. of space had been compensated for by a large range of other activities, such as outdoor exercise for at least two hours per day, library, games and television in the common room.

48. In Split Prison the applicant had stayed in dry, warm and clean cells and had been afforded between 2.9 and 3.5 sq. m of personal space during different periods, of which the Government did not have the details. His lack of space had, however, been compensated for by sufficient freedom of movement and activities outside the room.

2. The Court's assessment

49. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, 20 October 2016). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described were "degrading" from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (ibid., §§ 122-41; see also *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-59, 10 January 2012).

50. The Court notes that in Zagreb Prison the applicant had less than 3 sq. m of personal space for at least 152 days out of his 432-day detention there (see paragraph 5 above; see also the Court's findings of a violation of Article 3 in respect of stays in Zagreb Prison in *Ulemek v. Croatia,* no. 21613/16, §§ 128-31, 31 October 2019, and *Longin v. Croatia*, no. 49268/10, §§ 60-61, 6 November 2012). The same holds true as regards at least part of his stay in Split Prison, where he was detained for 193 days (see paragraphs 6 and 48 above).

51. The Court has previously found violations in respect of issues similar to those in the present case (see *Muršić*, cited above, §§ 151-153; *Ulemek*, cited above, §§ 127-131; and *Lonić v. Croatia*, no. 8067/12, § 74-78, 4 December 2014). Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the merits of this complaint in the present case.

52. There has accordingly been a violation of Article 3 of the Convention as regards the applicant's conditions of detention in Zagreb Prison and Split Prison.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

53. Lastly, the applicant complained, under Article 3 of the Convention, that he had been ill-treated by prison guards of Split Prison on 18 January 2012. After his initial complaint, the applicant changed his statement, allowing that the said incident may have happened on 19 or 20 January 2012 (see paragraph 8 above).

54. The Government maintained that the ill-treatment never happened.

55. The Court notes that on 20 January 2012 the applicant was admitted to hospital stating that "he felt weak after refusing food for two days" and that "during his forced relocation [from one cell to another], he fell and hit his head". The doctor established a contusion to his head. He thus did not raise any explicit complaints that he had been ill-treated by prison guards immediately after the alleged incident.

56. The Court further notes that the applicant did not complain about the alleged ill-treatment even after he was transferred from Split Prison. Although in his criminal complaint of 2012 he requested that security footage be obtained in order to "ensure evidence of criminal acts of the Split Prison staff" (see paragraph 17 above), it cannot be said that such a general statement without any specific mention of the alleged ill-treatment complained of had been sufficiently precise or detailed so as to allow the authorities to investigate the alleged incident.

57. In the absence of any concrete evidence that the alleged ill-treatment ever took place, the Court concludes that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3(a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

59. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage.

60. The Government contested that claim.

61. The Court awards the applicant EUR 15,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

62. The applicant also claimed EUR 1,875 in respect of costs and expenses incurred before the domestic courts and EUR 5,750 for those incurred before the Court, plus EUR 805 on account of translation costs

63. The Government contested those claims.

64. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among many others, *L.B. v. Hungary* [GC], no. 36345/16, § 149, 9 March 2023).

65. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 4,000 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the applicant's placement in the specially secured cell in Split Prison and his conditions of detention in Zagreb and Split Prisons admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the applicant's placement in the specially secured cell in Split Prison;

3. *Holds* that there has been a violation of Article 3 of the Convention on account of the applicant's conditions of detention in Zagreb and Split Prisons;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 November 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı Registrar	Arnfinn Bårdsen President