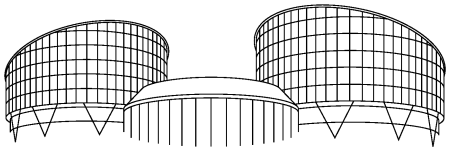

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ENACHE v. ROMANIA

(Application no. 10662/06)

JUDGMENT

STRASBOURG

1 April 2014

FINAL

01/07/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Enache v. Romania,

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

Josep Casadevall, *President,*
Alvina Gyulumyan,
Dragoljub Popović,
Luis López Guerra,
Kristina Pardalos,
Valeriu Griţco,
Iulia Antoanella Motoc, *judges,*
and Santiago Quesada, *Section Registrar,*

Having deliberated in private on 11 March 2014,

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

PROCEDURE

1. The case originated in an application (no. 10662/06) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Romanian national, Mr Marian Enache ("the applicant"), on 7 March 2006.

2. The Romanian Government ("the Government") were represented by their Agents, Ms I. Cambrea and Ms C. Brumar, of the Ministry of Foreign Affairs.

3. The applicant alleged that he had been detained in inhuman conditions and that State agents had hindered his right to individual petition before the Court.

4. On 15 September 2011 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1977 and is currently detained in Giurgiu Prison.

6. In a final judgment by the Dolj County Court, the applicant was sentenced to life imprisonment for murder.

7. The applicant was detained in Craiova Prison between 2 December 1997 and 26 June 2008. During that time he was transferred to other prisons or prison hospitals for short periods. On 26 June 2008 he was transferred to

Poarta Albă Prison. He has been serving his sentence in Giurgiu Prison since 2 September 2010.

A. Material conditions of detention

1. Craiova Prison

(a) The applicant's account

8. The material conditions of detention in Craiova Prison were described by the applicant as being inhuman and degrading.

9. As a result of the severity of his sentence, the applicant was classified as a dangerous prisoner in accordance with the prison regulations and was held in solitary confinement. He alleged that he had insufficient living space in his cell because it contained unnecessary beds. His requests for some of the beds to be removed were always refused by the prison administration. He also complained that he felt isolated, as he had been forbidden to share the cell with another person or to meet other detainees for the entire duration of his detention. This situation was aggravated by the complete lack of activities outside the cell. In this respect he contended that he had participated in educational activities only in 2002 and 2003. For the rest of the time he had spent in Craiova Prison, no activities had been proposed to him.

10. There was a severe lack of drinking water, and of hot and cold water in general. The insufficient provision of hot water, namely once a week for one hour for a high number of detainees in collective showers, made it impossible to maintain a proper standard of personal hygiene.

11. Heating was provided for only two hours in the morning and two in the evening, which was not enough to heat the cell. The applicant therefore suffered constantly from the cold during the winter.

12. The food was insufficient and of very poor quality. The applicant, who did not have the financial means to buy additional food, suffered from hunger for most of the time.

13. There was not enough light in the cell because the window was too narrow and artificial light was only provided in the evening.

14. The applicant was systematically handcuffed every time he was taken out of his cell, even when he was taken to the prison's religious facilities.

15. The applicant alleged that those conditions had had a negative impact on his physical and psychological well-being. In this connection, it appears from his prison medical file that he was suffering from chronic depressive psychopathy and had attempted to commit suicide. He was also diagnosed with gastritis and duodenitis, both of which became chronic as from 2004.

(b) The Government's account

16. The applicant was held alone in a cell measuring 9.03 sq. m, in which three rows of bunk beds were installed each measuring 1.90 m by 0.80 m. The cell also contained a table and two chairs. All the furniture was fixed on the floor and could not be moved. During his detention in Craiova Prison, the applicant shared the cell with other detainees for various periods of time. On one occasion, he even planned an escape with his cellmate, R.A. The applicant participated in two educational activities in the course of 2002 and one educational activity from January to April 2003.

17. There was a constant supply of cold drinking water, in accordance with the international conventions signed by Romania. Until 2001 inmates had had an opportunity to take a bath once a week in the collective bathing facilities. As from the second half of 2001, hot water was supplied daily, for a minimum of one hour.

18. In winter, heating was available between 1 November and 31 March, in accordance with a pre-established schedule, for an average of eight hours per day.

19. With respect to the quality and quantity of food served, the Government submitted that it was in accordance with the European standards and the internal prison regulations.

20. Concerning the alleged lack of light in the applicant's cell, the Government submitted that the cell contained a window measuring 1.50 m high and 0.75 m wide, which afforded the necessary light during the day. In addition, artificial lighting was available if needed until 10 p.m., in accordance with the prison's schedule for the provision of electricity.

21. Prisoners classified as dangerous, such as the applicant, were handcuffed whenever they were taken out of their cells and during transportation, in accordance with the prison regulations. The handcuffs were removed while they were attending educational or ethic/religious programmes and during visits.

2. Giurgiu Prison

(a) The applicant's account

22. The applicant was detained alone in a cell measuring 7 m by 1.50 m. A very small window was covered with metal bars and metallic netting.

23. The applicant could leave his cell for only three hours per day for a walk outside, but had no other activities.

24. The prison rubbish dump was outside the cell window and made the air smell unbearably fetid.

25. Whenever the applicant needed something, he had to tap on the door in order to draw the guard's attention. For this he was disciplined, usually by members of the special intervention units wearing masks.

(b) The Government's account

26. The applicant was detained in five different cells, all of which had the same specifications, namely a surface of 10.24 sq. m, two beds measuring 1.93 m by 0.83 m and one bed-side table.

27. The prison's rubbish dump was, and still is, located around 100 m from the window of the applicant's cell and the rubbish is collected at least once per month. The Government submitted that there were situations when a fetid smell was released in the air but measures to remedy the situation were always taken. No specific measures were given as examples in that respect.

28. As for the activities available to prisoners in Giurgiu Prison, the Government submitted a general overview of the internal regulations on that matter.

B. Right of petition and correspondence with the Court

29. On 23 January 2007 and 14 May 2009 the Court sent two letters to the applicant at Craiova Prison. The second letter was returned to the Court by the postal services with the mention "recipient unknown at this address".

30. On 5 August 2010 the Court invited the Government to submit information on whether the applicant was still detained and if so, in which prison he was currently being held.

31. On 16 September 2010 the Government submitted information confirming that the applicant was detained at that time in Poarta Albă Prison.

32. The Court sent two more letters by registered mail on 21 September and 30 November 2010 to Poarta Albă Prison. In view of the applicant's failure to reply to those letters and of the difference between the applicant's signature on the application form and the signatures on the return receipts, on 12 January 2011 the Court asked the Government to submit additional information as to whether the two letters had reached the applicant.

33. On 24 February 2011 the Government replied that as the applicant had been transferred to Poarta Albă Prison and subsequently to Giurgiu Prison, the two letters had not reached him until 1 October and 10 December 2010 respectively.

34. In support of those allegations, the Government submitted copies of incoming mail registers showing that the two letters had been returned from Craiova Prison owing to the applicant's transfer. They also submitted a copy of a page from a register entitled "Planning of personnel for prisoner's escort", on which the applicant's name, his signature and the registration number of the letter of 21 September 2010 appeared. The page was not dated. A copy of a page from Giurgiu Prison's incoming mail register showed the applicant's name and signature confirming receipt of the Court's letter of 30 November 2010 on 10 December 2010. Another copy of a page

from an incoming mail register of 31 January 2011 showed the applicant's signature for a delivery from the Council of Europe.

35. The Government further submitted that the signatures on the return receipts belonged to the prison employee in charge of receiving and distributing correspondence from and to the detainees, as provided for by the prison regulations. In this connection, they submitted a copy of the procedural rules for ensuring prisoners' right to correspondence, as approved by the National Administration of Prisons, as well as a copy of the relevant internal regulations in force in Poarta Albă Prison. It appears from those documents that the correspondence addressed to prisoners is collected by designated staff members, who confirm the collection of mail by signing the post office register. Subsequently, the receipt of mail by the detainee to whom it is addressed is confirmed by the detainee's signature in the prison's incoming mail register.

36. Among the documents attached to the Government's response was a copy of a statement signed by the applicant on 4 February 2011 and drafted in the following terms:

> "... With respect to the letter sent by the E.C.H.R. [the Court] to the Romanian Ministry of Foreign Affairs concerning the letters addressed to me, which remained without reply, I declare that I submitted these 2 (two) petitions, being unsatisfied with the conditions of detention in Craiova Prison. ... I was transferred to Poarta Albă Prison and subsequently to Giurgiu Prison. I declare that I no longer wish to correspond with the E.C.H.R. because I was transferred to another prison and the previous problems do not interest me anymore. In order to clarify any suspicions, I can hand over copies of the letters in question to the Giurgiu Prison. ..."

37. In a letter dated 16 May 2011 the applicant replied to the Government's submissions, stating that the authorities in the prisons of Craiova, Poarta Albă and Giurgiu continuously refused to ensure that his correspondence reached the Court, even threatening him that if he continued to complain before the Court "he would get out of prison only in a coffin" ("*Dacă mai continui procesul la Curtea Europeană te vom scoate de aici în patru scânduri*"). He further alleged that he had been transferred from Poarta Albă to Giurgiu Prison only to make him give up his application before the Court, and that he had been forced to sign the statement of 4 February 2011 in the office of the prison section director and in the presence of three masked guards. He mentioned that he intended to pursue his application before the Court.

38. The applicant also mentioned that he had received the Court's letters of 21 September and 30 November 2010 with excessive delay. They had been opened.

39. The Government submitted that all letters addressed to detainees were opened in order to check them for forbidden elements. They were then handed to the recipients without their content being read by the authorities. However, correspondence received from non-governmental organisations or

international institutions such as the Court was never opened. With respect to the two letters in question, the Government contended that they had been handed to the applicant in due time and without being opened.

II. RELEVANT DOMESTIC LAW AND INTERNATIONAL STANDARDS

40. Excerpts from the relevant provisions concerning the rights of detainees, Emergency Government Ordinance no. 56/2003 and Law no. 275/2006, are quoted in *Iacov Stanciu v. Romania* (no. 35972/05, §§ 113-16, 24 July 2012) and *Petrea v. Romania* (no. 4792/03, § 22, 29 April 2008).

41. Excerpts from the relevant parts of the General Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment ("the CPT") as well as of the of the European Prison Rules adopted by the Committee of Ministers on 11 January 2006 are quoted in *Iacov Stanciu* (cited above, §§ 121-24).

42. In a report of 2003 published following their visit to Craiova Prison in 1999, the CPT noted very severe overcrowding, a lack of heating, unsatisfactory hygiene conditions, as well as very poor quality food and no provision of cold water between 10 p.m. and 6.30 a.m. The CPT also expressed concerns about the absolute lack of activities for detainees with long sentences, as well as their isolation from the other detainees. The report concluded that the conditions of detention in Craiova Prison could easily be qualified as inhuman and degrading treatment.

43. In a second report issued following their visit of 2006 to Craiova Prison, the CPT reiterated its concerns that prisoners sentenced to life imprisonment were automatically qualified as dangerous and therefore placed under a very restrictive detention regime associated with draconian security measures. The CPT noted that they were strictly separated from other prisoners and even contacts between each other were forbidden. In addition, the CPT noted with concern that those prisoners were systematically handcuffed whenever they left their cell or detention zone, often without justification.

44. In both the above-mentioned reports the CPT expressed concerns about the dispatch of special intervention units wearing masks in order to control violent and/or recalcitrant detainees in all the Romanian prisons visited. The CPT noted that the presence of such units created an oppressive and intimidating atmosphere and that the wearing of masks made it difficult to identify a potential suspect, if and when an allegation of ill-treatment was made.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

45. The applicant complained, under Article 3 of the Convention, of inhuman and degrading treatment on account of the material conditions of his detention in Craiova and Giurgiu Prisons. In particular, he complained of a lack of living space and light in his solitary cell, a lack of hot and cold running water, the poor quality of food, a lack of adequate activities and out-of-cell time, his isolation from the other prisoners, his systematic handcuffing whenever he left his cell and the brutal interventions of masked special forces members.

Article 3 of the Convention reads as follows:

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

A. Admissibility

46. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The submissions of the parties

47. The applicant contested the Government's factual submissions and alleged that they did not correspond to the situation in the prisons in which he had been detained. He admitted that he had shared a cell with R.A. and that they had attempted to escape, but he submitted that he had been sanctioned for that act with ten days' strict isolation and eight months' restrictive detention regime. He contended that being isolated for his entire prison term constituted too severe a punishment for one act of indiscipline.

48. Referring to the information submitted on the general conditions of detention (see paragraphs 16-21 and 26-28 above), the Government contended that the domestic authorities had taken all necessary measures in order to ensure that the applicant's conditions of detention were adequate. The Government argued that the applicant's conditions of detention had not amounted to a violation of Article 3 of the Convention.

2. The Court's assessment

(a) General principles

49. With regard to the general principles governing the right of prisoners to detention conditions which are compatible with respect for human dignity, the Court has already emphasised in previous cases that people in custody are in a vulnerable position and the authorities are under a duty to protect them. Under Article 3 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).

50. 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). The Court notes that, in addition to overcrowding, other aspects of the physical conditions of detention are relevant for its assessment of compliance with Article 3 (see *Ostrovar v. Moldova*, no. 35207/03, § 89, 13 September 2005; *Babushkin v Russia*, no. 67253/01, § 44, 18 October 2007; and *Iacov Stanciu*, cited above, § 169). The Court has found that the following conditions of detention raise an issue under Article 3 of the Convention: lack of appropriate furniture in the cells; poor sanitary facilities, such as a limited number of toilets and sinks for a large number of detainees; toilets in cells with no water supply; sinks in cells providing only cold water for a wide range of needs (personal hygiene, washing clothing and personal objects, cleaning the toilets); limited access to showers providing hot water; poor sanitary conditions in general, including the presence of cockroaches, rats, lice and bedbugs; worn-out mattresses and bed linen; and poor quality food (see *Iacov Stanciu*, cited above, § 175).

51. With respect to special prison regimes, such as the one for dangerous prisoners, the Court has held that although the prohibition of contact with other prisoners for security, disciplinary or protective reasons can in certain circumstances be justified, solitary confinement, even in cases entailing only relative isolation, cannot be imposed on a prisoner indefinitely. It would also be desirable for alternative solutions to solitary confinement to be sought for persons considered dangerous and for whom detention in an ordinary prison under the ordinary regime is considered inappropriate (see *Piechowicz v. Poland*, no. 20071/07, § 164, 17 April 2012). Indeed, solitary confinement, which is a form of "imprisonment within the prison", should be resorted to only exceptionally and after every precaution has been taken, as specified in paragraph 53.1 of the European Prison Rules adopted by the Committee of Ministers on 11 January 2006 (see *Öcalan v. Turkey* [GC],

no. 46221/99, § 191, ECHR 2005-...; and *Messina (no. 2) v. Italy* (dec.), no. 25498/94, ECHR 1999-V, with further references).

52. Concerning the use of handcuffs, the Court has previously stated that, in view of the gravity of an applicant's sentence, his criminal record and his violent antecedents, it could be warranted on specific occasions, such as for transfers outside the prison (see *Garriguenc v. France* (dec.), no. 21148/02, 15 November 2007; and *Paradysz v. France*, no. 17020/05, § 95, 29 October 2009). However, the systematic handcuffing of a prisoner when taken out of his cell was considered in itself as degrading treatment when the measure lacked sufficient justification and was prolonged for a period of thirteen years (see *Kashavelov v. Bulgaria*, no. 891/05, §§ 39-40, 20 January 2011).

(b) Application of these principles to the present case

53. The Court observes that the applicant spent ten years and seven months in Craiova Prison and three years and four months in Giurgiu Prison, where he is currently detained.

54. With respect to the living space available to the applicant, it appears from the Government's submissions that, excluding the space occupied by the beds installed in his cells, the applicant had available 4.47 sq. m at Craiova Prison and 7.04 sq. m at Giurgiu Prison (see paragraphs 16 and 26 above). Therefore, it may be questioned whether the living space available to the applicant for a period of ten years and seven months in Craiova Prison could be regarded as attaining acceptable standards. In this connection the Court recalls that the CPT has set 7 m² per prisoner as an approximate, desirable guideline for a single occupancy detention cell (see, among others, *Kuzmin v. Russia*, no. 58939/00, § 47, 18 March 2010).

55. Concerning the applicant's isolation for long periods of time due to his automatic classification as a dangerous prisoner, the Court observes that the Government contended that this had been done in accordance with the law, but that during his stay in Craiova Prison the applicant did share the cell with other detainees. Except for the name of one person who shared the cell with the applicant for a certain period of time, no other factual information was submitted by the Government to show that the applicant had indeed shared the cell with other persons. No information was provided by the Government with respect to the period the applicant spent in Giurgiu Prison. The Court notes on this issue that the CPT expressed concerns about the automatic classification of prisoners as dangerous and the strict security measures deriving from it, including solitary confinement, in Craiova Prison as well as other Romanian prisons visited by the Committee.

56. The Court further observes that the parties submitted that the applicant had participated in educational out-of-cell activities only during 2002 and 2003 in Craiova Prison. For the rest of the applicant's sentence in both Craiova and Giurgiu Prisons, no specific information was provided by

the Government in order to refute the applicant's allegation that he had been entirely deprived of out-of-cell activities, with the exception of the daily walk.

57. The Court also notes that, for a period of at least four years until 2002, the applicant had limited access to hot showers. Concerning the provision of heating in Craiova Prison, the Court notes the Government's submission that heating was provided for eight hours per day, whereas the applicant alleged that there had been insufficient heating to ensure a comfortable temperature in the cells during the winter. As regards the alleged inadequate provision of cold water in Craiova Prison, the Court notes that the applicant's assertions are disputed by the Government. The Court considers that the applicant's submissions concerning the lack of hot water and heating, as well the lack of sufficient cold water in Craiova Prison, are corroborated by the CPT reports. It cannot but conclude that the applicant in the instant case was subjected to unsatisfactory sanitary conditions and deprived of the possibility of maintaining adequate personal hygiene.

58. With respect to the applicant's specific allegations concerning the insufficiency and poor quality of the food, the Court notes that they are supported by the findings of the CPT, at least with respect to Craiova Prison, while the Government merely referred to an alleged compatibility of the food in general with the European standards and the prison regulations.

59. Concerning the applicant's allegations about the unpleasant smell coming from the rubbish dump of Giurgiu Prison, the Court notes that they were not entirely contradicted by the Government, who merely stated that the authorities took measures whenever necessary, but gave no specific examples.

60. The Court notes that it is not in dispute between the parties that the applicant was systematically handcuffed whenever he was taken out of his cell in both Craiova and Giurgiu Prisons. In addition, the CPT's reports fully confirm the applicant's allegations on that point (see paragraph 37 above).

61. The Court is aware that prison authorities need to exercise caution when dealing with individuals who have been convicted of violent offences (see *Raninen v. Finland*, § 56, 16 December 1997, Reports of Judgments and Decisions 1997-VIII; *Mouisel v. France*, no. 67263/01, § 47, ECHR 2002-IX; and *Mathew v. the Netherlands*, no. 24919/03, § 180, ECHR 2005-IX). However, it observes that the systematic use of handcuffs in respect of the applicant started about fourteen years ago, in December 1997, and apparently continues to this day. With the exception of one attempt to flee, the Government did not identify any other specific incidents over that period in which the applicant had tried to flee or harm himself or others. Nor did they submit any information to show that there was a risk that such incidents might occur. Therefore, the Court shares the CPT's

concerns that the routine handcuffing of a prisoner in a secure environment cannot be considered justified (see paragraph 37 above).

62. In view of the foregoing, the Court considers that the cumulative conditions of the applicant's detention caused him distress that exceeded the unavoidable level of suffering inherent in detention and that attained the threshold of severity under Article 3.

There has accordingly been a violation of Article 3 of the Convention.

II. ALLEGED FAILURE TO COMPLY WITH OBLIGATIONS UNDER ARTICLE 34 OF THE CONVENTION

63. The applicant complained that the prison authorities had hindered his right to petition the Court and subjected him to pressure to withdraw his complaint. He relied in substance on Article 34 of the Convention, which reads as follows:

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

A. The parties' submissions

64. The applicant submitted that there was no legal provision allowing prison employees to sign return receipts for letters sent by registered mail. He alleged that when he had received the two letters from the Court they had already been opened and that he had been constantly pressured by the prison authorities to give up his application before the Court.

65. The Government contended that the applicant had failed to bring his complaints concerning the alleged interference with his right to petition the Court before the domestic courts, as provided for by Law no. 275/2006 on the execution of sentences. The Government further submitted that the applicant's allegations were unsubstantiated. They concluded that the applicant was duplicitous and insincere since, if his allegations were true and he had indeed been pressured into signing the 4 February 2011 statement, he should have immediately informed the Court about such a serious incident.

B. The Court's assessment

1. General principles

66. The Court reiterates at the outset that a complaint under Article 34 of the Convention is of a procedural nature and therefore does not give rise to

any issue of admissibility under the Convention (see *Iulian Popescu v. Romania*, no. 24999/04, § 29, 4 June 2013).

67. The Court further reiterates that it is of the utmost importance for the effective operation of the system of individual petition instituted by Article 34 that applicants or potential applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints (see, among other authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 105, Reports 1996-IV; *Knyazev v. Russia*, no. 25948/05, § 115, 8 November 2007; and, *mutatis mutandis*, *Di Cecco v. Italy*, no. 28169/06, § 27, 15 February 2011). In this context, "pressure" includes not only direct coercion and flagrant acts of intimidation, but also other improper indirect acts or contacts designed to dissuade or discourage applicants from pursuing a Convention remedy (see *Kurt v. Turkey*, 25 May 1998, p. 1192, § 159, Reports 1998-III).

68. Furthermore, whether or not contacts between the authorities and an applicant are tantamount to unacceptable practices from the standpoint of Article 34 must be determined in the light of the particular circumstances of the case. In this respect, regard must be had to the vulnerability of the complainant and his or her susceptibility to influence exerted by the authorities (see *Akdivar and Others*, p. 1219, § 105; and *Kurt*, pp. 1192-93, § 160, both cited above). The applicant's position might be particularly vulnerable when he is held in custody with limited contacts with his family or the outside world (see *Cotleț v. Romania*, no. 38565/97, § 71, 3 June 2003).

2. Application of these principles to the present case

69. The Court notes that, in view of the applicant's failure to reply to two successive letters, on 21 September and 30 November 2010 two additional letters were sent to him by registered mail. As the return receipts of those letters had not been signed by the applicant, information in this connection was requested from the Government. On 24 February 2011 the Government replied that the applicant had received the correspondence from the Court and his failure to reply clearly inferred that he no longer wished to pursue his application. In this connection, the Government forwarded to the Court a statement signed by the applicant on 4 February 2011, in which he declared that he no longer wished to correspond with the Court.

70. The Court observes that it is not clear from the Government's submissions when the applicant received the letter of 21 September 2010. As for the letter of 30 November 2010, it was indeed received on 10 December 2010. In addition, the relevant regulations governing prisoners' access to correspondence do not indicate that the return receipt of

a letter sent by registered mail must be signed by anyone other than the addressee prisoner (see paragraph 34 above).

71. The applicant informed the Court on 16 May 2011 that his statement of 4 February 2011 should be regarded as invalid, as it had been written under pressure, and confirmed his intention to pursue the proceedings (see paragraph 37 above). The Court notes that after those submissions had been transmitted to the Government, they insisted, without presenting any additional elements, that the statement in question had been written by the applicant voluntarily and that his allegations that it had been written under pressure from State agents were unsubstantiated (see *Knyazev*, cited above, § 118). In the Court's view, such conduct on the part of the Government, taken together with the difficulties encountered by the applicant in receiving the Court's letters, was not consistent with their obligation not to interfere with the applicant's right of individual petition.

72. The respondent State has therefore failed to comply with its obligations under Article 34 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

73. 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

74. The applicant claimed 60,000 euros (EUR) in respect of non-pecuniary damage for the suffering he had had to endure as a result of the inhuman and degrading conditions of detention. He further claimed a total of 60,000 EUR in respect of pecuniary and non-pecuniary damage for the hindrance of his right to individual petition before the Court.

75. The Government asked the Court not to grant any pecuniary damage to the applicant, since no plausible pecuniary damage could have been caused from the alleged breach of Article 34 of the Convention. In their view, should the Court find a violation of the applicant's rights guaranteed by Article 34 in the present case, such a finding should constitute sufficient just satisfaction. With respect to the non-pecuniary damage claimed for the alleged violation of the applicant's rights under Article 3 of the Convention, the Government submitted that it was speculative, excessive and unsubstantiated.

76. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

77. On the other hand, the Court observes that in the present case it has found a violation of Article 3 of the Convention and established that the respondent Government have failed to comply with their obligations under Article 34 of the Convention. Accordingly, it finds that the applicant has suffered non-pecuniary damage which cannot be compensated solely by the above findings of violations. Therefore, deciding on an equitable basis, it awards the applicant EUR 24,000 in respect of non-pecuniary damage.

B. Default interest

78. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds* that the State has failed to fulfil its obligation under Article 34 not to hinder the effective exercise of the right of individual petition;

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, EUR 24,000 (twenty-four thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 1 April 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President