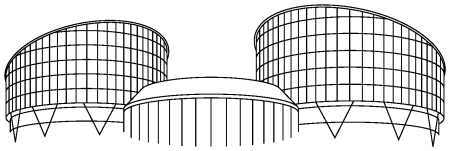

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ZAMFIRACHI v. ROMANIA

(Application no. 70719/10)

JUDGMENT

STRASBOURG

17 June 2014

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 Zamfirachi v. Romania,

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

Alvina Gyulumyan, *President*,
Ján Šikuta,
Dragoljub Popović,
Luis López Guerra,
Kristina Pardalos,
Johannes Silvis,
Iulia Antoanella Motoc, *judges*,
and Marialena Tsirli, *Deputy Section Registrar*,

Having deliberated in private on 27 May 2014,

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

PROCEDURE

1. The case originated in an application (no. 70719/10) 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 Adrian Richartt Zamfirachi ("the applicant"), on 25 October 2010.

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

3. The applicant alleged that he had been subjected to inhuman and degrading treatment in breach of Article 3 of the Convention on account of being repeatedly exposed to public view, handcuffed and chained to other inmates when being transported to court during the criminal proceedings against him. He further complained about the material conditions of his detention and of being exposed to substances hazardous to his health on 31 May 2010 in the cells of the Bucharest Police Department, as well as about the material conditions of his detention in the court-house cells and the conditions of his transportation to and from the domestic courts.

4. By a decision of 9 October 2012, the Court decided to give notice to the Government of the applicant's complaints, and declared the remainder of the application inadmissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant, Mr Adrian Richart Zamfirachi, is a Romanian national who was born in 1973 and lives in Bucharest.

6. At the time of the events the applicant was a lawyer registered with the Bucharest Bar Association.

A. The applicant's detention and handcuffing

7. On 23 April 2010, the National Anticorruption Department ("the NAD") asked the Bucharest Court of Appeal to place the applicant in pre-trial detention for twenty-nine days on charges of organising a criminal group (*constituirea unui grup infracţional*) and trading in influence (*complicitate la cumpărare de influență*). At the hearing the applicant asked the court to note, *inter alia*, that he had been taken before the court handcuffed by a single pair of handcuffs to a co-accused.

8. By an interlocutory judgment delivered on the same date, which was upheld by the Court of Cassation on 26 April 2010, the Bucharest Court of Appeal granted the NAD's request.

9. At a hearing of 23 August 2010 before the Bucharest Court of Appeal, the applicant argued, *inter alia*, that he had been brought to the hearings and presented to the public and press handcuffed to a co-accused. He also claimed that the conditions of his pre-trial detention were degrading.

10. By an interlocutory judgment delivered on the same date, the Bucharest Court of Appeal found that the applicant could lodge a complaint about the conditions of his pre-trial detention under Law no. 275/2006 on the execution of sentences with the post-sentencing judge, who was competent *ratione materiae* to examine his submissions.

11. On 26 October 2010 the applicant brought proceedings against the Codlea Prison authorities before the post-sentencing judge, complaining, *inter alia*, that he had been unlawfully restrained in public and when being taken before the domestic courts.

12. By an interlocutory judgment of 1 November 2010 the post-sentencing judge dismissed the applicant's complaint. He held that according to the relevant legal provision detainees had to be restrained during their transfer from the transport vehicle to the court-house cells and from the court-house cells to the courtrooms when passing through public areas. Consequently, when the applicant had attended hearings before the Brașov Court of Appeal and the Court of Cassation he had been restrained only during his transfer from the transport vehicle to the court-house cells and from the court-house cells to the courtroom when he had been passing through public areas. The applicant appealed against the judgment.

13. By a final judgment of 18 January 2011, the Braşov District Court dismissed the applicant's appeal. It held that the applicant had been lawfully handcuffed. The measure had been necessary because of the route taken, which was a public route, had been applied only for that segment of the transfer, and had been proportionate to the potential danger the transfer represented for the safety of the public, the applicant and the escort. The same treatment was applied to any detainee in a similar situation. The applicant's public exposure in handcuffs had been a consequence of his detention and not the result of an abuse of power by the prison authorities. Therefore, the applicant had not been subjected to inhuman or degrading treatment.

14. In a letter of 30 November 2011 the applicant informed the Court that when he had learned about the criminal investigation opened against him, and his potential pre-trial detention, he had informed the press about it and had asked to speak to the prosecutor investigating his case.

B. Conditions of detention

1. The cells of the Bucharest Police Department

15. From 23 April to 27 July 2010 the applicant was detained in cells of the Bucharest Police Department (*Arestul Direcţiei Generale a Poliţiei Municipiului Bucureşti*).

(a) The applicant

16. The applicant stated before the Court that he had been detained in a 14 sq. m cell together with five other inmates. The cell was fitted with a squat toilet which the applicant could not use properly because of recent Achilles tendon reconstructive surgery that prevented him from squatting without pain shooting through his leg. The cell also had no sink, and he was able to wash himself and the cutlery only by using water from the pipe designed to flush the toilet.

17. He also stated that on 31 May 2010 his cell had been disinfected with chemical substances sprayed by several individuals wearing protective suits and breathing masks in the presence of himself and the other inmates. Although he had asked to leave the cell for a walk, permission had been refused. His food, bed sheets, clothes, cutlery and dishes had not been removed from the cell prior to the disinfection. All six prisoners occupying the cell had begun to feel unwell afterwards.

(b) The Government

18. The Government submitted that the applicant had been detained in a cell of 14.57 sq. m equipped with six beds with bedrolls and a table with chairs. The cell was also equipped with a sink and a shower which were

separated from the rest of the cell by a curtain. The inmates had access to cold and hot water. The cell was also equipped with a squat toilet and ventilated by a double window.

19. The bedroll and the sanitary facilities were in proper condition. The cell was cleaned by the inmates. Hygiene products were purchased by them or supplied by the administration of the detention centre. The detainees were also allowed to receive personal hygiene items from their families.

20. The applicant had been incarcerated together with five other persons and each one of them had been afforded a bed.

21. On 31 May 2010 the cell had been disinfected according to the rules in force. The detainees had been evacuated prior to the disinfection and had only been allowed to re-enter the cell three hours after the disinfection had finished. There was no record of any incidents with regard to the environment or the health and security of any persons during the disinfection. Moreover, the applicant had not lodged any complaint in respect of the disinfection procedure and the applicant's medical file did not indicate any health problems connected with it.

2. The court-house cells

(a) The applicant

22. In his initial application, the applicant stated before the Court that every other day during the proceedings before the first instance court (*derulare a procedurii judiciare în cursul judecații în fond a cauzei*) he was taken to court hearings and kept locked up in the court-house cells while in the court building. The court-house cells lacked windows, running water and functioning sanitary facilities.

(b) The Government

23. The Government, relying on information and documents provided by the Presidents of the Bucharest and Brașov Courts of Appeal, stated that the court-house cells of the Bucharest Court of Appeal had been substantially renovated and re-opened in September 2006. The cells were fitted with modern equipment and facilities. Each cell had sanitary facilities, a lavatory, permanent running water, a ventilation system, windows, a lighting system, a heating system and benches. The cells were located in the basement, together with the registry, the court's archives and the clerks' offices. Any damage to the facilities that occurred was caused by the defendants themselves was remedied promptly.

24. There were no detention rooms at the Brașov Court of Appeal. The detainees who were summoned before the court waited in a separate room to attend the hearing. The room had sanitary facilities, running water, heating, electric light and a double window. If running water was ever temporarily unavailable, the problem was immediately remedied.

C. Transport conditions to and from the courts

1. The applicant

25. The applicant stated before the Court that when he was taken to court hearings he had to travel in unheated and unventilated cars, and that this situation persisted for a period of more than two hundred days, throughout the criminal proceedings against him.

2. The Government

26. The Government stated that the applicant had been transported to the court mostly by Rahova Prison and only four times by Codlea Prison.

27. The Rahova Prison authorities used cars which seated a number of passengers equal to the number of detainees who were being transported. The vehicles were equipped with metal nets or grids and locks in order to protect the police escort officers. The detainees were transported in separate compartments according to their assigned category. The vehicles were in an adequate condition and complied with the road safety regulations. They were fitted with overhead windows for light and ventilation, as well as with electrical and heating equipment. The vehicles were subjected to periodical technical inspections. Additional facilities had been installed in the vehicles, such as ventilation sun roofs in the central compartment, benches in the rear compartment, air conditioning, and heating systems.

28. The Codlea Prison authorities transferred detainees to the courts by two vehicles, one with nine seats and one with forty seats. Both vehicles complied with the safety regulations and were equipped with ventilation and heating and lighting systems and had separate compartments for different categories of detainees. The number of inmates transported was proportionate to the number of seats available in the vehicles.

II. RELEVANT DOMESTIC AND INTERNATIONAL LAW

29. Excerpts from the relevant domestic law concerning the use of handcuffs are set out in the cases of *Costiniu v. Romania* (dec.), no. 22016/10, §§ 14-18, 19 February 2013, and *Carpen v. Romania*, no. 61258/10, § 21, 14 January 2014 [not final]).

30. Excerpts from the relevant legal provisions of Law no. 275/2006 concerning the rights of detainees are given in the case of *Iacov Stanciu v. Romania*, (no. 35972/05, § 116, 24 July 2012).

31. The relevant conclusions of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("the CPT") after its visits in 2002 and 2003 to the Bucharest Police Department's cells are described in *Ogică v. Romania*, no. 24708/03,

§§ 25-26, 27 May 2010). The CPT noted that the living space available to detainees was insufficient.

32. In its report (CPT/Inf (2011) 31) published on 24 November 2011 following a visit from 5 to 16 September 2010 to a number of detention facilities in Romania, the CPT expressed concerns over the limited living space available to the prisoners and the insufficient space provided for by the regulations in place at that time.

33. In respect of the pre-trial detention facilities in Bucharest, the CPT found that the premises had been repainted and old or damaged equipment (beds, mattresses, light bulbs) changed just before its visit. In many cells access to natural light and ventilation were poor, in particular because of the nets or bars installed on the windows and insufficient artificial lighting. All the cells were equipped with sanitary corners (showers and toilets), but these were not completely separated; the toilets were often partially hidden by curtains installed by the detainees. Many cells were dirty and poorly maintained.

34. Following a visit in January 2009 to cells of the Bucharest Police Department, the Romanian Helsinki Committee (APADOR-CH) criticised the fact that increased numbers of detainees were being held in the same cell, exceeding the norms recommended by the CPT.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

35. The applicant complained that being exposed to public view, being taken to the court hearings in handcuffs and chained to another inmate, the poor material conditions of detention, his exposure to hazardous substances on 31 May 2010 in the cells of the Bucharest Police Department, the inappropriate material conditions of detention in the court-house cells, and the poor transport conditions every time he was taken to appear at court amounted to inhuman and degrading treatment. He relied on 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. The applicant's public exposure in handcuffs

36. The Government submitted that the applicant's public exposure in handcuffs had not attained the minimum level of severity required to fall within the scope of Article 3 of the Convention.

37. The Government contended that the applicant had been handcuffed, alone or to co-defendant, only when leaving the prison transport vehicle and when being transferred to the court's arrest room, and from there to the courtroom. The applicant had not been restrained during transfer from the detention facilities to the court premises before the hearings, or during the court hearings. The restraint procedure used in his case had been lawful and was mandatory for police officers irrespective of the applicant's personal circumstances, social status, age or weight.

38. The Government submitted that the courts were located in crowded areas accessible to the public, which made the transfer of detainees difficult. Consequently, restraint measures had been put in place in order to ensure that both the detainees and the public were protected.

39. The Government asserted that the applicant had not been exposed in public places or on police premises in order to be filmed or photographed by journalists. They underlined that according to the applicant's letter of 30 November 2011 he had informed the press himself about the criminal investigation against him.

40. The Government contended that the applicant had failed to challenge the measure and that there was no medical evidence in the case-file suggesting that he had suffered any physical or psychological consequences.

41. The applicant argued that for a total of approximately two hundred days he had regularly been exposed to the public in handcuffs during his transfers from the detention centres to the domestic courts. In addition, he had been handcuffed to co-defendants and repeatedly filmed and photographed in the presence of the masked police officers escorting him in order to convey a negative image of him to the public. Consequently, the degrading treatment he had been subjected to had affected his psychological well-being and his freedom of movement.

42. The applicant contradicted the Government's argument that the restraint measures taken against him had been lawful, given that Law no. 275/2006 prohibited automatic handcuffing and provided for the use of handcuffs only in exceptional circumstances. Any other rules or regulations the Government could have relied on to justify the measure contradicted the aforementioned law.

43. The applicant contended that his allegation concerning his public exposure in handcuffs was borne out by the fact that the issue had been raised repeatedly before the domestic authorities.

44. The Court reiterates that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 of the Convention (see *Jalloh v. Germany* [GC], no. 54810/00, § 67, ECHR 2006-IX). Furthermore, in considering whether a treatment is "degrading" within the meaning of Article 3, the Court will have regard to whether its object is to humiliate and debase the person concerned and whether, as far as the consequences are concerned, it adversely affected his or her personality in a

manner incompatible with Article 3. Although the question whether the purpose of the treatment was to humiliate or debase the victim is a factor to be taken into account, the absence of any such purpose cannot conclusively rule out a finding of violation of Article 3 (see *Peers v. Greece*, no. 28524/95, §§ 67-68 and 74, ECHR 2001-III, and *Valašinas v. Lithuania*, no. 44558/98, § 101, ECHR 2001-VIII). Moreover, it may well suffice that the victim is humiliated in his own eyes, even if not in the eyes of others (*Tyrer v. the United Kingdom*, 25 April 1978, § 32, Series A no. 26).

45. The Court accepts that safety measures such as the use of handcuffs or an escort may be necessary to ensure the safety of detainees during their transportation (see *Raninen v. Finland*, 16 December 1997, § 55, *Reports of Judgments and Decisions* 1997-VIII). This does not exclude that, in certain circumstances, elements relating to individual detainees may be considered in order to decide on the necessity of the application of such a measure.

46. The Court is of the view that handcuffing does not normally give rise to an issue under Article 3 of the Convention where the measure has been imposed in connection with lawful arrest or detention and does not entail use of force, or public exposure, exceeding what is reasonably considered necessary in the circumstances. In this regard, it is of importance for instance whether there is reason to believe that the person concerned would resist arrest or abscond, cause injury or damage or suppress evidence (see *Raninen*, cited above, § 56).

47. The Court notes that the legal basis for the restraint of detainees during their transportation resides in the provisions of Law no. 275/2006 and the different orders issued by the Romanian Ministry of Justice. Thus, it is to be noted that if Law no. 275/2006 limits the use of handcuffs to exceptional cases, it appears from the orders that the use of handcuffs is permissible when detainees are being escorted on a public route.

48. In the case at hand, the measure was applied to the applicant only during his transfer from the transport vehicle to the court-house cells and from the latter to the courtroom. It is uncontested that the applicant was at that time on public premises, and this, according to the post-sentencing judge, necessitated the use of handcuffs (see paragraph 13 above).

49. It is true that the applicant, a lawyer at the time, was not charged with a violent offence. In addition, there was no evidence that he had been aggressive or that he was likely to abscond.

50. However, it can be seen from the information made available by both parties that the applicant was only exposed to the public in handcuffs for a brief period of time – from the moment he left the transport vehicle until he entered the building. Moreover, there is no evidence in the file that he was exposed on public premises more than was necessary. Furthermore, he was not handcuffed during the hearings before the courts (see *Pop Blaga v. Romania* (dec.), no. 37379/02, § 101, 10 April 2012).

51. With regard to the impact of this measure on the applicant, the Court notes that the applicant did not provide the Court with any evidence in support of his allegations, such as a medical report or any other document capable of establishing that he had suffered psychological problems beyond the stress and psychological tension inherent in any safety measure (see, *mutatis mutandis*, *Colesnicov v. Romania*, no. 36479/03, § 95, 21 December 2010, *Patriciu v, Romania* (dec.), no. 43750/05, §§ 51-53, 19 March 2013 and *Minculescu v. Romania* (dec.), 7993/05, § 67, 13 November 2012). Furthermore, there is no evidence in the file that the wearing of handcuffs during his transfer the court hearings affected him physically.

52. Therefore, the Court does not consider that the alleged treatment attained the minimum level of severity required by Article 3 of the Convention. It follows that the present complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. The material conditions of detention and exposure to substances hazardous to the applicant's health in the cells of the Bucharest Police Department

1. Admissibility

53. The Government contended that the disinfection of the applicant's cell on 31 May 2010 had been carried out in accordance with the rules in force. Moreover, there were no records indicating that the applicant's health or well-being had been affected by the disinfection. Furthermore, the material conditions of the applicant's detention had been appropriate.

54. The applicant submitted that the disinfection had been carried out in the inmates' presence. Further, none of them had been allowed to leave the cell for more than half an hour; their food, cutlery, bed linen and clothes had not been taken out of the cell prior to the disinfection; and the Government had failed to submit any information on the applicable regulations in this regard.

55. The applicant also argued that all the inmates present in the cell that day had suffered breathing difficulties, vomiting and dizziness after the disinfection, although none of them had been seen by a doctor. In addition, the applicant contended that the material conditions of detention had been inadequate.

56. The Court notes at the outset that the parties have given conflicting descriptions of the events of 31 May 2010, particularly as to whether the applicant was removed from the cell prior to and after the disinfection was carried out. In addition, the Government failed to submit information on

whether the inmates' clothes, food, cutlery and bed linen were also removed from the cell during the disinfection.

57. The Court also notes, however, that there is no medical evidence in the file indicating that the disinfection had any physical or psychological consequences for the applicant's health or well-being. Moreover, the applicant failed to submit any supporting evidence, for example, statements by his cellmates substantiating his allegations. Furthermore, the event in question, together with its alleged effects on the applicant's health, appears to have lasted from a few hours to a day at the most and was limited to a single incident.

58. Consequently, the Court is not convinced that the applicant's alleged exposure to substances hazardous to his health on 31 May 2010 attained the minimum level of severity required by Article 3 of the Convention. It follows that the present part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

59. The Court notes, however, that the remaining part of the applicant's complaint under Article 3 of the Convention, concerning the material conditions of his detention in the cells of the Bucharest Police Department 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.

2. Merits

60. The applicant submitted that the material conditions of his detention in the cells of the Bucharest Police Department had been inappropriate. He contended that the cells were overcrowded, lacked running water and adequate conditions for hygiene or for satisfying his physiological needs.

61. The Government contended that the material conditions of the applicant's detention had been adequate and did not raise any issue under Article 3 of the Convention.

62. The Court reiterates that under Article 3 of the Convention the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him 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).

63. When assessing conditions of detention, account has to be taken of the cumulative effects of these conditions, as well as of the specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

64. 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 are "degrading" from the point of view of Article 3 (see *Karalevičius v. Lithuania*, no. 53254/99, 7 April 2005).

65. In the instant case, even if the Court accepts that the occupancy rate put forward by the Government is accurate, it notes that the applicant's living space for the time he spent in the cell at the Bucharest Police Department was 2.42 sq. m, and therefore smaller than the size recommended by the CPT for cells occupied by groups of detainees.

66. The Court also notes that it has previously found a violation of Article 3 of the Convention on account of inappropriate material conditions of detention in the cells of the Bucharest Police Department (see *Ogică*, § 45-47, cited above, and *Carpen*, § 46, cited above). It considers that the overcrowded cells can only increase the difficulties of the authorities and of the detainees to maintain an appropriate level of hygiene (see *Ion Ciobanu v. Romania*, no. 67754/10, § 42, 30 April 2013 and *Stark v. Romania*, no. 31968/07, § 35, 18 February 2014 (not final)). Moreover, the Government has failed to put forward any argument that would allow the Court to reach a different conclusion in this case.

67. Therefore, there has accordingly been a violation of Article 3 of the Convention.

68. Taking this finding into account, the Court does not consider it necessary to examine the remainder of the applicant's complaint.

C. The material conditions of detention in the court-house cells

69. The Government submitted that the conditions of detention in the court-house cells had been appropriate.

70. However, they underlined that the applicant had failed to clarify in his application before the Court whether his complaint concerned the material conditions of detention in the court-house cells of the Bucharest Court of Appeal, the Braşov Court of Appeal or the Court of Cassation. In addition, in his complaint he had alleged improper conditions of detention in respect of the court-house cells of the first-instance court but had failed to refer to the conditions of detention he had been detained in in the cells of the court which dealt with his appeals on points of law. Consequently, they considered the applicant's complaint as concerning only the material conditions of detention in the court-house cells of the first-instance courts, namely the Bucharest and the Braşov Courts of Appeal.

71. The applicant contended that on two hundred occasions during the trial, when there had been hearings before both the first-instance and the appellate courts, he had had to leave the prison at 6 a.m. Once he reached the court building he was taken to the court-house cells pending the start of

the hearings. On some occasions, the court hearings had even started at 1 p.m.

72. The Court notes at the outset that the wording of the applicant's initial application concerning the material conditions of detention in the court-house cells referred only to the proceedings before the first-instance court (see paragraph 22 above). In these circumstances, and in the absence of any specific reference to the Court of Cassation, the Court considers that the applicant's complaint concerns only the material conditions of detention in the court-house cells of the Bucharest and the Braşov Courts of Appeal.

73. The Court also observes that on numerous occasions the applicant was detained in the court-house cells located on the premises of the Bucharest and the Braşov Courts of Appeal. His detention in these cells was normally limited to short periods of time prior to court hearings, although it appears that on some occasions he had to remain there for longer periods – for up to six or seven hours.

74. The Courts notes that the applicant's allegations that the cells lacked windows, running water and functioning sanitary facilities have been contradicted by the Government. The Government further submitted that any shortage of water and any maintenance problems were immediately fixed. Their arguments were also supported by the information and documents provided by the Presidents of the Bucharest and the Braşov Courts of Appeal (see paragraph 23 above).

75. In these circumstances, and having regard to the fact that the applicant's detention in the court-house cells was not continuous, the Court cannot conclude that the applicant's detention in those cells involved hardship of such intensity as to induce physical suffering or mental weariness, or was an attempt to humiliate him.

76. It follows that this part of the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

D. The conditions of transportation

77. The Government contended that the conditions in which the applicant was transported had been adequate. Moreover, he had been transported in the prison vehicles only for short periods of time.

78. The applicant maintained that the transport conditions had been inappropriate because he had to travel repeatedly in unheated and unventilated cars.

79. The Court, in the absence of any disagreement on the part of the applicant, accepts the Government's argument that he was transported in a prison vehicle, albeit repeatedly, for only short periods of time. In addition, it notes that the applicant did not argue that the transport conditions were cramped or overcrowded.

80. In these circumstances, although the parties had expressed conflicting points of view as to whether the vehicles were properly ventilated or heated, given that the applicant had to remain in the transport vehicles for only short periods of time the Court is not convinced that the treatment he was subjected to was of such intensity as to induce physical suffering or mental weariness, or was an attempt to humiliate him.

81. It follows that this part of the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. 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

83. The applicant claimed 1,000 euros (EUR) in respect of pecuniary damage and EUR 1,000,000 in respect of non-pecuniary damage. He argued that the amount claimed for pecuniary damage was meant to cover the costs incurred by making copies of documents, correspondence and transport. In addition, he contended that he had suffered non-pecuniary damage on account of the inhuman and degrading treatment he had been subjected to by the domestic authorities.

84. The Government submitted that the applicant's claim in respect of pecuniary damage actually related to costs and expenses he had incurred himself and should be examined accordingly. In addition, they contended that the applicant had failed to prove he had actually sustained non-pecuniary damage. They further argued that the amounts claimed were excessive, and that a finding of a violation would provide sufficient just satisfaction with regard to non-pecuniary damage.

85. The Court shares the Government's view that the amount for pecuniary damage claimed by the applicant relates to costs and expenses he incurred himself, and considers that the claim should be examined accordingly. Consequently, it finds no reason to award the applicant any sum under that head.

86. The Court considers that the applicant must have suffered distress as a result of the conditions of detention in the cells of the Bucharest Police Department. It considers that sufficient just satisfaction would not be provided solely by a finding of a violation. Consequently, making an

assessment on an equitable basis, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

87. The applicant claimed EUR 1,000 for the costs and expenses incurred before the domestic courts and before the Court. He failed to submit any supporting documents.

88. The Government considered that the amount claimed by the applicant was excessive and contested the causal link between the present case and the costs and expenses claimed. The only amount that they considered should be awarded to the applicant under this head was for the costs he had incurred in respect of his correspondence with the Court, provided that they had been necessary and were substantiated by evidence.

89. 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 have been actually and necessarily incurred and are reasonable as to quantum. In the present case, in the absence of any substantiation, but regard being had to the fact that the applicant must have incurred some costs in respect of his correspondence to the Court, the Court considers it reasonable to award the applicant EUR 200 to cover costs and expenses.

C. Default interest

90. 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 complaint under Article 3 of the Convention concerning the material conditions of the applicant's detention in the cells of the Bucharest Police Department admissible and the remainder of the application inadmissible;

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

3. *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, to be converted

into the national currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 200 (two hundred euros), plus any tax that may be chargeable, 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;

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

Done in English, and notified in writing on 17 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli
Deputy Registrar

Alvina Gyulumyan
President