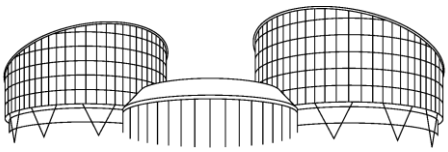

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF VARTIC v. ROMANIA (no. 2)

(Application no. 14150/08)

JUDGMENT

STRASBOURG

17 December 2013

FINAL

17/03/2014

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Vartic v. Romania (no. 2),

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

Josep Casadevall, *President*,
Alvina Gyulumyan,
Corneliu Bîrsan,
Ján Šikuta,
Luis López Guerra,
Nona Tsotsoria,
Kristina Pardalos, *judges*,
and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 26 November 2013,

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

PROCEDURE

1. The case originated in an application (no. 14150/08) 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 Moldovan national, Mr Ghennadii Vartic ("the applicant"), on 26 January 2008.

2. The Romanian Government ("the Government") were represented successively by their Agent, Mr R.-H. Radu, and their co-Agent, Ms I. Cambrea, of the Ministry of Foreign Affairs.

3. The applicant alleged that while in detention in Rahova Prison he was provided neither with vegetarian food as required by his Buddhist convictions nor with adequate medical treatment.

4. On 8 July 2010 the application was communicated to the Government. On the same date the Moldovan Government were informed of their right to intervene in the proceedings in accordance with Article 36 § 1 of the Convention and Rule 44 § 1 b, but they did not communicate any wish to avail themselves of this right.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1973 and is currently detained in Jilava Prison.

A. Background of the case

6. In 1999 the applicant was sentenced to twenty-five years in prison. He served his sentence in various Romanian prisons. From 30 April to 12 May 1998 and from 9 to 21 February 2009 he was detained in Rahova Prison.

7. On 18 April 2006 the applicant was diagnosed with chronic hepatitis C by doctors at Colentina Hospital. On 21 June 2006 Dr S. A., a specialist in internal medicine, recommended further investigations and especially viremia testing to establish whether treatment with Interferon would be appropriate. On 17 July 2006, after a full medical examination, Dr. V. R., a gastroenterologist, made the same recommendation and held that the applicant could receive treatment while in detention.

8. From 2006 onwards the applicant requested the Rahova Prison authorities and the National Prison Service to provide him with a vegetarian diet in accordance with his Buddhist beliefs. He also claimed that this type of diet was the most appropriate for a person with hepatitis.

9. On 3 May 2007 Dr P. M. O., a general practitioner in Rahova Prison, made the following written note on one of the applicant's request forms: "Is registered with chronic hepatitis type C. Propose to approve." ("*Este în evidenţă cu hepatită cronică tip C. Propun să aprobaţi*").

10. On 14 June 2007 the Rahova prison authorities informed the applicant that the relevant legislation did not provide for a vegetarian diet. They noted however that a Christian Orthodox fasting diet that excluded food of animal origin ("*norma 17 – mâncare de post fără produse de origine animală*") was provided for and that detainees could apply for this type of diet.

11. The applicant was provided with the diet for detainees who were ill ("*norma 18 pentru persoane bolnave*"). The parties submitted several menus for this type of diet; these menus included pork.

12. According to the information submitted by the parties, seventeen types of diet were provided for; they each took into consideration the detainees' age, sex, medical condition or availability for work. With the exception of diet no. 17 (see paragraph 10 above), none took into consideration religious requirements.

B. First complaint based on the provisions of Law no. 275/2006

13. On 26 January 2007 the applicant lodged a complaint before the judge responsible for the execution of prison sentences in Rahova Prison. He claimed, among other things, that he had received discriminatory treatment in respect of the dietary requirements of his religious beliefs. He also alleged that the prison authorities had failed to treat him with Interferon, as prescribed by the specialist doctors.

14. On 20 March 2007 the judge responsible for the execution of sentences noted that the prison authorities had contacted the "Group for Buddhist Meditation" for information regarding the dietary requirements of this faith, and were open to accommodating the applicant's dietary requirements. With respect to the medical treatment, the judge held that, according to the applicant's medical report, he had received the medication prescribed by the doctors. The judge also noted that in February 2007 the applicant had refused a medical examination and that he had been offered a fresh examination in a public hospital in order for him to be diagnosed and receive treatment recommendations. Consequently, the judge dismissed the applicant's complaint as ill-founded.

15. The applicant appealed before the Bucharest District Court. He argued that the prison authorities had failed to provide him with a vegetarian diet on the ground that it was not available under the regulations and that the Christian fasting diet provided only 2,000 calories, while he was prescribed a 3,175-calorie diet for his medical condition. He also alleged that he had not received treatment with Interferon.

16. The Bucharest District Court dismissed his complaint as ill-founded on 6 August 2007. The District Court took note that the applicant had declared himself a Buddhist but found that the Order of the Minister of Justice no. 2713/C/2001 regarding the enforcement of food regulations in prisons did not include any specifications for vegetarian diets. The District Court held that the applicant was receiving the diet for detainees who were ill, and concluded that the prison authorities had provided him with an adequate diet in both medical and religious terms. Concerning the allegations of lack of proper medical treatment, the District Court noted that, according to medical expert reports of 21 June and 17 July 2006, the applicant had been diagnosed with chronic hepatitis C, but that the appropriateness of treatment with Interferon had not been medically established, as the applicant himself had refused to take the necessary medical tests. The District Court therefore dismissed the applicant's appeal.

C. Second complaint based on the provisions of Law no. 275/2006

17. On 21 February 2008 the applicant lodged a new complaint before the judge responsible for the execution of prison sentences in Rahova Prison. He complained, among other things, that he had not received treatment with Interferon.

18. On 31 March 2008 the judge dismissed his complaint. He relied on an information note of 28 March 2008 from the director of Rahova Prison, which stated that the applicant had undergone examinations in Cantacuzino Hospital to establish whether treatment with Interferon was appropriate, and concluded that his case was still under examination. The judge also took note that the applicant had received the diet for detainees who were ill.

19. The applicant appealed. On 7 May 2008 the Bucharest District Court dismissed his appeal, on account of the fact that his case was under examination. The District Court also held that the prison authorities had contacted the "Group for Buddhist Meditation" in order to determine the dietary prescriptions of this faith and to make provision for the applicant's diet.

D. Developments with regard to the applicant's medical condition

20. On 1st October 2008 the Health Insurance Fund for the army, public order, national security and the judicial authorities ("*CASAOPSNAJ*") approved reimbursement of treatment with Interferon for the applicant for four months. The approval was renewed on 19 March and 25 August 2009.

21. According to the Government, after this date the applicant received treatment with Interferon free of charge. He was treated every week, as prescribed by the doctors, and received in addition hepatoprotector and hepatotropic medication. The applicant admitted that he had received this treatment but claimed that it was stopped three times, without indicating the exact periods of time. He denied receiving hepatoprotectors (silimarine) free of charge.

22. On 16 April 2009 the Bucharest County Court dismissed the applicant's request for a suspension of his prison sentence for health reasons. Relying on the applicant's medical file and examinations, the County Court held that there was no conclusive evidence that his medical condition had worsened in detention.

23. In 2009 and 2010 the applicant was transferred four times to prison or civilian hospitals for various medical examinations. More precisely, in July 2009 he was transferred to Cantacuzino Hospital to have a viremia test for hepatitis.

24. The applicant's medical file also lists the following medical conditions: disc problem, deviated nasal septum, and personality disorder. While in detention, he was regularly examined and received medication for these conditions.

II. RELEVANT DOMESTIC LAW AND INTERNATIONAL PRACTICE

25. The relevant provisions of Law no. 275/2006 on the execution of sentences ("the Execution of Sentences Act 2006") are quoted in *Iacov Stanciu v. Romania* (no. 35972/05, § 116, 24 July 2012). In addition, section 40 § 1 of the Act provides that neither freedom of conscience and opinion nor freedom of religion may be restricted.

26. The rules of enforcement (*regulament de aplicare*) of the Execution of Sentences Act 2006 provide that detainees may receive food parcels during visits from their family members. The Minister of Justice's order

no. 2714/2008 details the permissible weight and content of such parcels and the regularity with which they may be received by detainees.

27. Following the adoption of the Minister of Justice's order no. 3042/2007, detainees were no longer allowed to receive by post any parcel containing "food, sweets, vegetables, fruit, coffee, cigarettes, mineral water, or non-alcoholic beverages" (Article 11). The order came into force on 27 December 2007.

28. The Recommendation of the Committee of Ministers to member states on the European Prison Rules (Rec(2006)2) ("the European Prison Rules") is quoted in *Jakóbski v. Poland* (no. 18429/06, § 26, 7 December 2010). Rule 22 provides, among other things, that the detainees shall be offered a diet that takes their religion into account.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

29. The applicant complained that by refusing to provide him with the vegetarian diet required by his Buddhist convictions, the prison authorities had infringed his right to manifest his religion as provided in Article 9 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
>
> 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

30. The Government argued that Article 9 of the Convention did not cover any dietary prescriptions and asked the Court to declare the application incompatible *ratione materiae*. As a subsidiary contention, relying on the case of *Ionescu v. Romania* ((dec.), no. 36659/04, 1 June 2010), they asserted that the applicant had not suffered any significant disadvantage, and asked the Court to declare the application inadmissible.

31. The applicant did not submit observations on the admissibility of his complaint.

32. The Court will examine the Government's objections separately.

1. Applicability of Article 9 of the Convention

33. The Court notes that Article 9 of the Convention lists the various forms which manifestation of one's religion or belief may take, namely worship, teaching, practice and observance (see *Eweida and Others v. the United Kingdom*, no. 48420/10, § 80, ECHR 2013 (extracts)). Freedom of religion includes in principle the right to try to convert one's neighbour, for example through "teaching", failing which, moreover, "freedom to change [one's] religion or belief", enshrined in Article 9, would be likely to remain a dead letter (see, amongst many authorities, *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A, and *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 34, ECHR 1999-I).

34. Freedom of thought, conscience and religion denotes views that attain a certain level of cogency, seriousness, cohesion and importance (see *Leela Förderkreis e.V. and Others v. Germany*, no. 58911/00, § 80, 6 November 2008). Still, the Court has held that the State's duty of neutrality and impartiality, as defined in its case-law (see, for example, *Miroļubovs and Others v. Latvia*, no. 798/05, § 80, 15 September 2009) is incompatible with any power on the State's part to assess the legitimacy of religious beliefs (see *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 107, ECHR 2005-XI).

35. In addition, the Court reiterates that it has already found that respecting dietary restrictions can be regarded as a religiously motivated act (see *Cha'are Shalom Ve Tsedek v. France* [GC], no. 27417/95, § 73, ECHR 2000-VII). It has specifically held that an individual's decision to adhere to a vegetarian diet can be regarded as motivated or inspired by the Buddhist religion (see *Jakóbski*, cited above, § 45).

36. Consequently, Article 9 of the Convention is applicable (see *Jakóbski*, cited above, § 45). It follows that the Government's first argument must be dismissed.

2. Significant disadvantage

37. The Court points out that the purpose of the "significant disadvantage" admissibility criterion is to enable more rapid disposal of unmeritorious cases and thus to allow it to concentrate on its central mission of providing legal protection of the rights guaranteed by the Convention and its Protocols (see *Ştefănescu v. Romania* (dec.), no. 11774/04, § 35, 12 April 2011).

38. Inspired by the general principle *de minimis non curat praetor*, this criterion hinges on the idea that a violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court (see *Korolev v. Russia*

(dec.), no. 25551/05, 1 July 2010). The assessment of this minimum level is relative and depends on all the circumstances of the case (see *Korolev*, cited above, and *Gagliano Giorgi v. Italy*, no. 23563/07, § 55, ECHR 2012 (extracts)). The severity of a violation should be assessed taking account of both the applicant's subjective perceptions and what is objectively at stake in a particular case (see *Eon v. France*, no. 26118/10, § 34, 14 March 2013).

39. In the instant case, the Court takes the view that the applicant attached high importance to his complaint that he was not being provided with food in accordance with the requirements of his religion. He repeated his requests before the domestic authorities and lodged several actions before the courts (see *mutatis mutandis*, *Eon*, cited above, § 34). As regards the subject matter of his complaint, the Court finds that the nature of the issues raised in the present complaint gives rise to an important matter of principle.

40. The Court notes that in the *Ionescu* case (cited above) relied on by the Government it had found that the applicant had not suffered a significant disadvantage because his financial loss caused by a third party's failure to perform a contract was limited (ibid., § 35). Unlike in that case, the applicant in the present case raises an issue that cannot be easily quantified financially and that additionally did not have an immediate impact but rather lasted a longer period of time. It follows that the Government's second objection must also be dismissed.

41. The Court further finds 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 parties' submissions

42. The applicant argued that he had never declared himself as Christian Orthodox. He was born in the former USSR, where christening children was not a common practice. He was raised as an atheist and embraced the Buddhist faith later in life. In detention, he relied on the vegetarian food his family sent him by post, but after the adoption of the Minister of Justice's order no. 3042/2007 he could no longer receive parcels by post. His family had difficulty travelling to the prison regularly. When he was refused a vegetarian diet by the prison authorities he adopted a diet of bread and margarine and sometimes marmalade. He maintained that the Rahova prison authorities' failure to provide him with a vegetarian diet amounted to a violation of his freedom of religion.

43. The Government argued that the applicant appeared as Orthodox in the Rahova Prison documents. Following an audit, the prison authorities in

Rahova found that some detainees changed their religion in order to receive better food: the authorities consequently required detainees to provide written proof of their religion. The applicant did not submit such written proof, and he was provided with food which was adequate for his health; his diet excluded pork, but contained lean meat. The Government indicated that general medical opinion held that a vegetarian diet was not suitable for persons with hepatitis. They concluded that this complaint was manifestly ill-founded.

2. The Court's assessment

44. The Court is of the view that the applicant's complaint must be examined from that standpoint of the respondent State's positive obligations (see *Jakóbski*, cited above, § 46).

45. In this respect, the Court reiterates that whether the case is analysed in terms of a positive duty on the State to take reasonable and appropriate measures to secure the applicant's rights under paragraph 1 of Article 9, or in terms of an interference by a public authority to be justified in accordance with paragraph 2, the applicable principles are broadly similar (see *Siebenhaar v. Germany*, no. 18136/02, § 38, 3 February 2011). In both contexts regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a margin of appreciation in determining the steps to be taken to ensure compliance with the Convention (see *Eweida and Others*, cited above, § 84).

46. In the instant case, the Court notes that the Government questioned the genuineness of the applicant's faith and referred to a survey in Rahova which had suggested that detainees were abusing freedom of religion in order to receive better food (see paragraph 43). However, the suggestion that the applicant had himself abused this right is not supported by any evidence. The applicant himself provided a coherent account of the manner in which he observed his Buddhist faith, and argued that he asked the prison authorities to provide the diet required by his faith only when, due to a change in legislation, he could no longer rely exclusively on the food provided by his family. It also appears that during the domestic proceedings the courts did not in any way question the genuineness of his faith (see *Kovalkovs v. Latvia* (dec.), no. 35021/05, § 57, 31 January 2012).

47. The Court further notes that the domestic courts dismissed the applicant's complaint on the grounds that the prison authorities had contacted a Buddhist organisation to seek more information on their dietary rules (see paragraphs 14 and 19 above). Whether or not the authorities were at that material time willing to offer the applicant a diet that respected the applicant's religious beliefs, the Government did not provide any additional information on the outcome of their initial initiative. On the contrary, they asserted to the Court that the applicant had been provided with a diet that

included meat because it was appropriate for his medical condition. However, the Court notes that the general practitioner at Rahova Prison described a vegetarian diet as appropriate for the applicant's medical condition (see paragraph 9 above).

48. The applicant requested a meat-free diet, as prescribed by his religion (see *Jakóbski*, cited above, § 45). Whilst the Court is prepared to accept that a decision to make special arrangements for one prisoner within the system can have financial implications for the custodial institution and thus indirectly on the quality of treatment of other inmates, it must consider whether the State can be said to have struck a fair balance between the interests of the institution, those of other prisoners and the particular interests of the applicant (see *Jakóbski*, cited above, § 50).

49. The Court notes that the applicant's meals did not have to be prepared, cooked and served in any special way, nor did he require any special foods (see *Jakóbski*, cited above, § 52). The Court is not persuaded that the provision of a vegetarian diet to the applicant would have entailed any disruption to the management of the prison or any decline in the standards of meals served to other prisoners, all the more so as a similar diet free of animal products was already provided for detainees observing the Christian Orthodox fasting requirements (see paragraph 10 above).

50. The Court also notes that the applicant was offered little alternative, especially after the entry into force of the order of the Minister of Justice no. 3042/2007 that prohibited food parcels being received by post. Even if it had still been possible to receive parcels from the family when they visited the prison, the Court takes the view that this would have had only limited effect, since it would have been dependent on the financial and geographical situation of the family (compare and contrast, *Aliev v. Ukraine*, no. 41220/98, § 182, 29 April 2003 and *Stepuleac v. Moldova*, no. 8207/06, § 55, 6 November 2007).

51. In this regard, the Court reiterates that in the *Cha'are Shalom Ve Tsedek* case (cited above, §§ 81-82) it gave special attention to the alternatives available to the members of the applicant association: the Court noted that *glatt* meat which met religious requirements could be procured from several butchers' shops in France and Belgium. It also noted that the applicant had been able to enter into negotiations with another religious association for ritual slaughter to be carried out according to its own religious prescriptions. This large sample of alternative solutions led the Court to the conclusion that there had not been an interference with the applicant's freedom of religion (see *Cha'are Shalom Ve Tsedek*, cited above, § 83).

52. In the instant case, the Government did not indicate whether such alternative measures were available for the applicant (see also paragraph 49 above).

53. Finally, the Court points out that the recommendation of the Committee of Ministers to the member States, namely Recommendation (Rec 92006)2) on the European Prison Rules (see paragraph 26 above) recommend that prisoners should be provided with food that takes into account their religion (see *Jakóbski*, cited above, § 53). In recent judgments the Court has drawn the authorities' attention to the importance of this recommendation, notwithstanding its non-binding nature (see *Sławomir Musiał v. Poland*, no. 28300/06, § 96, 20 January 2009).

54. Having regard to all the foregoing factors, and despite the margin of appreciation left to the respondent State, the Court finds that the authorities failed to strike a fair balance between the interests of the prison authorities and those of the applicant, namely the right to manifest his religion through observance of the rules of the Buddhist religion.

55. The Court concludes that there has been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

56. The applicant complained that he had contracted hepatitis C while imprisoned, and that the Rahova Prison authorities had not provided him with adequate medical 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."

Admissibility

57. Relying on the Court's case-law (*Petrea v. Romania*, no. 4792/03, 29 April 2008; *Măciucă v. Romania*, no. 25763/03, 26 May 2009; *Iamandi v. Romania*, no. 25867/03, 1 June 2010; and *Răcăreanu v. Romania*, no. 14262/03, 1 June 2010), the Government argued that a complaint based on the provisions of the Execution of Sentences Act 2006 and raised before the judge responsible for the execution of prison sentences was an effective remedy in cases in which detainees alleged a lack of medical treatment in detention.

58. They also argued that the applicant had received appropriate medical treatment in detention and, when necessary, had been transferred to civilian hospitals for treatment. With regard to the applicant's hepatitis, they insisted that he had not given any evidence to support his allegations that he had been infected with that virus in detention, but had only referred to the "inexplicable circumstances" in which he had become infected. From October 2008 onwards the applicant was treated with Interferon, as

prescribed by the doctors. The Government concluded that they had met their positive obligations deriving from the Court's case-law in the matter.

59. The applicant reiterated his complaints. He particularly argued that he had been infected with hepatitis in 2004 after a dental examination, because of the use of unsterilised medical instruments. He submitted the first page of his medical file, dated 30 January 1996, claiming that the hepatitis had not been registered at that time. This document listed the applicant's medical history as he had declared it: a psychiatric condition and surgery for peritonitis, as well as epilepsy and meningitis. The applicant also complained that his treatment with Interferon had been interrupted three times in prison and that he had not received silimarine free of charge.

60. While Article 3 of the Convention cannot be construed as laying down a general obligation to release detainees on health grounds, it nonetheless imposes an obligation on the State to protect the physical well-being of persons deprived of their liberty, for example by providing them with the requisite medical assistance (see *Mouisel v. France*, no. 67263/01, § 40, ECHR 2002-IX, and *Kudła v. Poland* [GC], no. 30210/96, §§ 93-94, ECHR 2000-XI).

61. In the instant case, the Court will therefore examine whether the respondent State met their positive obligations to examine and provide the applicant with appropriate treatment for his medical condition. At the outset, the Court notes that in 2006, while the applicant was detained in Rahova Prison, he had been diagnosed with hepatitis C, and that he complained that he had been infected in prison, more precisely because of unsterilised dental instruments. The Court takes note that at the time of his arrest in 1996 no such medical condition had been recorded (see paragraph 59 above). However, according to the document submitted by the applicant, no blood test for hepatitis had been carried out at the time of his arrest. Rather, his medical file listed the medical conditions as the applicant had declared them. Nor did the applicant claim that other blood tests for hepatitis had been carried out before 2006. His allegations that he had become infected because of the use of unsterilised medical equipment are not supported by any evidence.

62. Consequently, there is no other indication in the file allowing a reasonable conclusion to be drawn as to the time and manner in which the applicant contracted hepatitis (see *mutatis mutandis*, *Iamandi v. Romania*, no. 25867/03, § 65, 1 June 2010). Therefore, this part of the complaint is manifestly ill-founded and should be dismissed as inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

63. With regard to the medical treatment for hepatitis, the Court notes that the applicant lodged two complaints before the domestic courts, on account that he had not been treated with Interferon, as prescribed by the doctors. However, according to the medical documents submitted by the parties, when the applicant lodged his complaints treatment with Interferon

had only been suggested by the doctors, and further examination had been recommended in order to have the viremia tested (see paragraph 7 above). His complaints were therefore dismissed, since his medical file was under review by the authorities.

64. From October 2008 onwards the applicant received treatment with Interferon free of charge and on a weekly basis. The applicant acknowledged this, but claimed that the treatment had been interrupted three times. However, he did not indicate when his treatment had been interrupted and for how long. With regard to the treatment with silimarine, the Court notes that the parties disagree (see paragraph 21 above).

65. Even accepting the applicant's submissions, the Court takes the view that such deficiencies on the part of the State do not disclose a failure to meet their positive obligations to protect his health (see *I. T. v. Romania*, (dec.), no. 40155/02, 24 November 2005).

66. With regard to the applicant's other medical conditions, the Court notes that the authorities made efforts to meet his health needs by regularly taking him to prison or civilian doctors, including specialist doctors, or by having him admitted to both civilian and prison hospitals (see paragraphs 23 and 24 above). Moreover, the Court observes that the applicant was prescribed medical treatment and that he received it on a regular basis (see *Constantin Tudor v. Romania*, no. 43543/09, § 81, 18 June 2013).

67. It follows that this part of the complaint is also manifestly ill-founded and should be dismissed as inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

68. Lastly, the applicant raised several other issues under Articles 3, 6 § 1, 13 and 14 of the Convention and Article 2 of Protocol no. 7 to the Convention.

69. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application 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

70. 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

71. The applicant claimed 246,000 euros (EUR) in respect of non-pecuniary damage caused by several alleged violations, some of which are not the subject of the present application.

72. The Government argued that only EUR 50,000 out of this sum relates to the subject of the present application and asked the Court to dismiss the applicant's claim as excessive.

73. On the basis of its case-law in the matter, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage incurred as a result of the violation of his Article 9 rights.

B. Costs and expenses

74. The applicant also claimed EUR 475 and 300 United States dollars (USD) for costs and expenses incurred before the domestic courts and the Court. He submits certain substantiating documents.

75. The Government argued that the applicant did not submit evidence for the entire amount.

76. 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, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 200 covering costs under all heads.

C. Default interest

77. 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 concerning the freedom of religion admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 9 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 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 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;

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

Done in English, and notified in writing on 17 December 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President