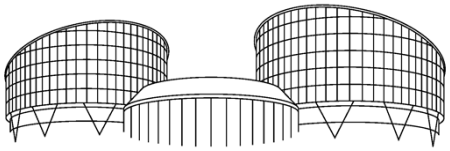

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF JATSÕŠÕN v. ESTONIA

(Application no. 27603/15)

JUDGMENT

STRASBOURG

30 October 2018

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 Jatsõšõn v. Estonia,

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

Robert Spano, *President,*
Julia Laffranque,
Ledi Bianku,
Işıl Karakaş,
Valeriu Griţco,
Jon Fridrik Kjølbro,
Stéphanie Mourou-Vikström, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 2 October 2018,

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

PROCEDURE

1. The case originated in an application (no. 27603/15) against the Republic of Estonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Estonian national, Mr Jatsõšõn, on 1 June 2015. He was represented before the Court by Mr K.-M. Jõgi, a lawyer practising in Tallinn.

2. The Estonian Government ("the Government") were represented by their Agent, Ms M. Kuurberg, of the Ministry of Foreign Affairs.

3. The applicant alleged that the transport conditions in a prison van, namely the small size of the prison van compartment and the lack of a seat belt or handles in the compartment, had been inhuman and degrading and had made him forego attending the funeral of his grandmother.

4. On 2 May 2016 these complaints were communicated to the Government. The remainder of the application concerning the applicant's having to wear hand and ankle cuffs and the alleged lack of an effective remedy was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1985 and lives in Viljandi.

6. At the time of the events at issue, the applicant was serving a prison sentence for robbery and violence against a prison official. According to the risk assessment contained in his individual management plan drawn up by Tartu Prison on 16 January 2013 (*kinnipeetava individuaalne täitmiskava*), the applicant had been punished five times for criminal acts and was assessed to be a danger to the public, prone to risks and impulsive.

7. On 13 May 2013 the applicant requested prison leave to attend his grandmother's funeral in Tarvastu, Viljandi County, which is located approximately 80 km from Tartu Prison. The applicant stated in his request that he was aware that the leave would entail him wearing handcuffs and that he would be accompanied by guards.

8. Permission for prison leave under supervision (*lühiajaline väljaviimine*) was granted on 14 May 2013. The decision (*käskkiri*) made reference to the fact that the applicant was considered highly dangerous and had received several disciplinary punishments which were still in effect. The decision was accompanied by an order (*korraldus*) of the same date which detailed how the prison leave would be organised, specifying that the applicant had to be escorted by at least three prison officers and that, as a preventive measure, he had to wear both hand and ankle cuffs.

9. On 15 May 2013 the applicant and his brother (also a prisoner in the same prison), were to be transported to the funeral service in the same prison van. The applicant signed a document about the prison escort regime (*kinnipeetavale isikule lühiajalise väljaviimise raames kohaldatav saatmisrežiim*) which explained the rules about being escorted, including the obligation to wear hand and ankle cuffs. At 9.30 a.m. he was placed in a single occupancy compartment of a prisoner transport van. It was a Volkswagen Crafter van used by the prison since October 2010, which had one four-person compartment and four single occupancy compartments. Each single occupancy compartment was at least 60 cm wide, 149 cm high and 85 cm long, with a floor area of 0.51 square metres. The compartment in which the applicant was placed was furnished with a plastic seat attached to the floor. There were no handles or seat belt.

10. The prison van reached the vehicle access gate of the prison premises. The applicant then decided not to go to the funeral and was taken back to the prison approximately twenty minutes later. His brother was thereafter transported to the funeral at 10.02 a.m. and reached the cemetery at 10.57 a.m.

11. On 9 September 2013 the applicant lodged a request with Tartu Prison, asking for compensation in the sum of 7,500 euros (EUR), claiming that the use of hand and ankle cuffs had been unjustified and that the prison authorities had wished to expose him to the public and to his family in such degrading circumstances. He added that the van compartment had been too small and without safety equipment, making him fear for his life. The applicant also alleged he had suffered psychological trauma because he had

been forced to forego attending his grandmother's funeral owing to the above-mentioned conditions. The prison dismissed his complaint.

12. On 4 December 2013, repeating the same complaints as those detailed above, the applicant lodged a complaint against Tartu Prison with the Tartu Administrative Court.

13. On 11 March 2014 the Tartu Administrative Court dismissed the applicant's complaint. The court referred to the legal basis for using hand and ankle cuffs and considered it justified. With regard to the conditions in the transport van, the court noted that the applicant had refused to be transferred and therefore had never been subjected to the conditions described. As the applicant had refused to go on prison leave of his own free will, no unlawful action could be attributed to Tartu Prison. The court considered it plausible that the applicant had decided not to attend the funeral because he had not wanted his relatives to have a bad impression of him. However, there was no sign that the prison authorities had particularly wanted to degrade him in front of his family by resorting to the use of hand and ankle cuffs.

14. On 9 September 2014 the applicant lodged an appeal against the first-instance judgment with the Tartu Court of Appeal. He claimed, *inter alia*, that there had been no reason to conclude that he would have been embarrassed to be in shackles in front of his family, and that the main reason he had decided not to go to the funeral had been the transport conditions.

15. On 7 October 2014 the Tartu Court of Appeal dismissed the applicant's appeal and upheld the judgment of the first-instance court. Since the applicant had foregone being transferred to his grandmother's funeral, there had been no unlawful act on the part of the prison authorities. As the transfer van had never left the precincts of the prison, he could not claim compensation for something that might have happened or for any trauma that might have occurred had he taken the prison leave.

16. On 10 November 2014 the applicant lodged an appeal on points of law, stating that he stood by the same submissions he had made to the lower courts. On 11 February 2015 the Supreme Court refused him leave to appeal on points of law.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The relevant legislation

1. The Traffic Act

17. Section 30(1) of the Traffic Act (*Liiklusseadus*) provides that, in a vehicle equipped with seat belts, a passenger must wear a seat belt properly.

2. Regulation no. 42 of 13 June 2011 of the Minister of Economic Affairs and Communication, "The technical requirements for motor vehicles and their trailers and requirements for equipment"

18. The "General requirements for buses" section of Annex I of Regulation no. 42 of 13 June 2011 of the Minister of Economic Affairs and Communication, "The technical requirements for motor vehicles and their trailers and requirements for equipment" (*Mootorsõiduki ja selle haagise tehnonõuded ning nõuded varustusele*), makes reference to Directive 2001/85/EC of the European Parliament and of the Council (see paragraph 27 below).

B. The relevant case-law

19. In a judgment of 30 November 2015 (case no. 3-3-1-56-15) the Supreme Court assessed whether transporting a prisoner in a van compartment with a floor area of 0.45 square metres and a height of 1.5 metres could independently, or in combination with the use of hand and ankle cuffs, be regarded as degrading. Relying on the case-law of the European Court of Human Rights, the Supreme Court concluded that, in analysing the legality of the prisoner's transport conditions, the personal floor space available to the prisoner should be assessed, together with other criteria such as: lighting and ventilation; whether each prisoner had his or her own seat; the duration of the journey; and the number of times the prisoner was transported in cramped conditions. In order to assess whether, in that particular case, the applicant had had to endure conditions degrading to human dignity, the Supreme Court relied on the European Parliament and Council Directive 2001/85/EC (see paragraph 27 below). The Supreme Court found that the dimensions of the transported prisoner's seat and legroom had been approximately the same as those set out as minimum requirements in the Directive. It held that, in such conditions, a single journey lasting a little over two hours had not degraded the applicant's human dignity, either separately, based on the dimensions of the van compartment, or cumulatively, with the use of means of restraint. The Supreme Court considered it important that the personal space in the van had not been different from the minimum requirements for transporting passengers who were not prisoners.

20. Reference to Directive 2001/85/EC was also made in a Tartu County Court judgment of 2 March 2015 (case no. 3-14-51449) and in a Tartu Court of Appeal judgment of 12 January 2016 (case no. 3-14-50320). In the latter case, the court dismissed the claim in respect of non-pecuniary damage of a prisoner who had twice been transported for ten minutes in a single occupancy compartment with a floor space of 0.51 square metres. The court considered that holding otherwise would lead to a result whereby

the rights of people travelling by bus who were not prisoners would be protected to a lesser extent than those of prisoners. Having taken note of the Court's case-law, the Tartu Court of Appeal considered that such a conclusion could not be the aim of the Court.

21. The Tartu Court of Appeal, in a judgment of 17 March 2015 (case no. 3-14-220), assessed that on seven occasions when the applicant had been transported together with three or fewer prisoners in a prison van intended for six persons and there had been at least 0.78 square metres of space per prisoner, he had not sustained any damage to be compensated for. However, the Court of Appeal found a breach of the applicant's rights in relation to one occasion when he had been transported together with five other prisoners for a period of approximately one hour in a passenger compartment with a floor area equating to 0.39 square metres per prisoner.

III. RELEVANT INTERNATIONAL LAW AND PRACTICE

A. The Standard Minimum Rules for the Treatment of Prisoners

22. The Standard Minimum Rules for the Treatment of Prisoners, adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 (U.N. Doc. A/CONF/611, annex I, with amendments), in so far as relevant, read as follows:

Removal of prisoners

"45. (1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them."

B. Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules

23. On 11 January 2006 the Committee of Ministers of the Council of Europe adopted Recommendation Rec (2006) 2 to Member States on the European Prison Rules, which replaced Recommendation No. R (87) 3 on the European Prison Rules accounting for the developments which had occurred in penal policy, sentencing practice and the overall management of

prisons in Europe. As regards the transport of prisoners, the amended European Prison Rules lay down the following guidelines:

> "32.2 The transport of prisoners in conveyances with inadequate ventilation or light, or which would subject them in any way to unnecessary physical hardship or indignity, shall be prohibited."

C. Findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

1. Compartment size

24. The conditions of prisoner transport have been addressed by the CPT in a number of reports concerning its visits to different countries. The relevant references to country visits and particular reports which concern the size of prison van compartments are set out in *M.S. v. Russia* (no. 8589/08, § 65, 10 July 2014).

2. Seat belt or handles

25. A delegation of the CPT carried out a visit to the Netherlands from 2 to 13 May 2016. In the relevant part of report CPT/Inf (2017) 1, it made the following remark:

> "29. At Houten Police Detention Facility, the delegation examined vehicles used for the transport of detained persons. All the vehicles were of a similar design, with two compartments for two persons and one compartment for three, located in the back of the vehicles. The compartments were under video-surveillance and were equipped with a call bell and an intercom. However, the delegation observed that the vehicles did not possess seat belts in the compartments for detained persons, which represents a safety hazard. The CPT recommends that this shortcoming be remedied."

26. A delegation of the CPT visited Slovenia from 16 to 27 September 2001. It noted the following in paragraph 95 of its report CPT/Inf (2002) 36:

> "95. In the course of its visit, the delegation examined the vehicles used for prisoner transport. The vehicles had a secure rear compartment of 1.7 m² for a maximum intended seating capacity of 6 prisoners; in the CPT's opinion, a compartment of such a size should not accommodate more than four prisoners. There was poor ventilation and no access to natural light, and the artificial lighting was extremely dim. Further, the intercom equipment did not allow prisoners to make themselves heard properly by the escorting officers. The compartment was not equipped with seatbelts, nor did it have any handles or railings which would prevent prisoners from losing their balance as the vehicle moved...
>
> **The CPT recommends that the Slovenian authorities review current arrangements for the transport of prisoners, in the light of the above remarks.**"

IV. RELEVANT EUROPEAN UNION LAW

27. Annex III to Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, amending Directives 70/156/EEC and 97/27/EC, provides for criteria for the dimensions of passenger seats and space for seated passengers. In accordance with the Directive, the required minimum width of a seat varies between 40 cm and 45 cm, depending on the type of bus (whether it is constructed with areas for standing passengers or constructed principally or exclusively for the carriage of seated passengers – Annex III, Figure 9 "Dimensions for passenger seats"). The Directive also provides that passengers should have at least 70 cm of leg space (Annex III, Figure 13 "Space for seated passengers").

THE LAW

ALLEGED VIOLATIONS OF ARTICLES 3 AND 8 OF THE CONVENTION

28. The applicant complained that the transport conditions provided for his prison leave to attend his grandmother's funeral, namely a small compartment without a seat belt or handles, had violated his rights under Article 3 of the Convention. Being the master of the characterisation to be given in law to the facts of the case, the Court considers that this complaint should be analysed from the standpoint of Articles 3 and 8 of the Convention, which, in so far as relevant, read as follows:

Article 3

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

Article 8

"1. Everyone has the right to respect for his private and family life ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Alleged violation of Article 3 of the Convention

1. Admissibility

(a) The parties' submissions

29. The Government submitted that the applicant could not claim to be a victim within the meaning of Article 34 of the Convention, because he himself had decided not to go to the funeral and had therefore not been affected by the conditions of transport in the prison van. The mere potential for a violation and the applicant's fear that his life would be endangered in the prison van were not sufficient.

30. The applicant contested the Government's arguments. The fact that he had not been transported outside the prison premises was irrelevant, because the conditions of transport in themselves had been inhuman and degrading. Had he been in the van and it had been involved in an accident, his life would have been at risk.

(b) The Court's assessment

31. The Court reiterates that in order to be able to lodge a petition pursuant to Article 34, a person, non-governmental organisation or group of individuals must be able to claim "to be the victim of a violation ... of the rights set forth in the Convention ..." In order to claim to be a victim of a violation, a person must be directly affected by the impugned measure (see *Micallef v. Malta* [GC], no. 17056/06, § 44, ECHR 2009).

32. The Court considers that although the applicant decided not to go to the funeral, he did so after having spent some time in the prison transport van and having seen and experienced its conditions – conditions which were, according to him, in violation of Article 3 of the Convention. The applicant can therefore claim to be a victim of an alleged violation of his rights under Article 3 of the Convention in so far as the allegation concerns the time he spent in the prison van. The duration of the transportation is a factor that the Court takes into account in its overall assessment of the transport conditions. The Government's objection must therefore be rejected.

33. The complaint under Article 3 is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. As no other grounds for declaring the complaint inadmissible have been established, the Court concludes that it must be declared admissible.

2. Merits

(a) The parties' submissions

34. The applicant asserted that in the case of *Yakovenko v. Ukraine* (no. 15825/06, 25 October 2007) the Court had referred to the findings of

the CPT, in accordance with which individual compartments measuring 0.4, 0.5 or even 0.8 square metres were unsuitable for transporting a person, regardless of the duration of a trip. In the present case, the total floor area in the single occupancy prison van compartment had been 0.51 square metres, and there had been no seat belt or handles to hold on to.

35. The Government argued that the conditions of transport had not gone beyond the inevitable element of suffering or humiliation connected with the applicant's detention, and thus had not amounted to inhuman or degrading treatment under Article 3 of the Convention. They emphasised that all the conditions and aspects of transport had to be assessed cumulatively, without there being an exclusive focus on floor space. The applicant had been placed alone in a single occupancy compartment with a floor area of 0.51 square metres. The compartment was at least 60 cm wide, 85 cm long and 149 cm high, and had a strong plastic seat on a metal frame attached to the floor. As for leg space, although narrow, it met the requirements of Directive 2001/85/EC (see paragraph 27 above). During the day, the compartments received natural daylight through the two roof hatches and windscreen; if it was dark, ceiling lights were switched on. The van had three separate adjustable air heating systems and zones, including one for transported prisoners. No seat belts or handles had been designed for the compartments. The Government noted that in *Voicu v. Romania* (no. 22015/10, 10 June 2014), the Court had found that the absence of seat belts alone could not lead to a violation of Article 3. Considering those conditions and the fact that the applicant was young and healthy and had not spent more than twenty minutes in the van, during which time it had not left the prison premises, the treatment had not reached the level of severity to come within the scope of Article 3.

(b) The Court's assessment

(i) General principles

36. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour. Ill-treatment must, however, attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, for example, *Idalov v. Russia* [GC], no. 5826/03, § 91, 22 May 2012).

37. In the context of deprivation of liberty the Court has consistently stressed that, to fall under Article 3, the suffering and humiliation involved must in any event go beyond that inevitable element of suffering and

humiliation connected with detention. The State must ensure that a person is detained in conditions which are compatible with respect for 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 *Idalov*, cited above, § 93; *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000‑XI; and *Popov v. Russia*, no. 26853/04, § 208, 13 July 2006).

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

(ii) Application of those principles to the present case

39. The Court will confine its examination of the applicant's complaint to the issues of limited floor space and the lack of a seat belt or handles in the individual compartment (see paragraphs 3 and 4 above). It notes that no complaint was made as regards other conditions of transport, namely ventilation, seating, heating or light in the van.

40. It observes that the applicant was placed in an individual compartment which had 0.51 square metres of floor space. The CPT has considered individual compartments measuring 0.4, 0.5 or even 0.8 square metres to be unsuitable for transporting a person, no matter how short the duration (see paragraph 24 above).

41. The Court reiterates that the criteria developed in the practice of the CPT constitute a weighty factor in the Court's analysis of the adequacy of prisoners' transport conditions. However, the assessment of whether there has been a violation of Article 3 cannot be reduced to only a numerical calculation of square metres allocated to a detainee (see *Muršić v. Croatia* [GC], no. 7334/13, §§ 122-123, ECHR 2016, which addressed the question of prison conditions, including the available living space in prison cells). Only a comprehensive approach to the particular conditions can provide an accurate picture of the reality for the person being transported (see, for example, *M.S.*, cited above, §§ 74-75, where the Court also considered the frequency and the duration of trips; *Trepashkin v. Russia (no. 2)*, no. 14248/05, §§ 132-136, 16 December 2010, where account was taken of the duration and number of trips, whether the design capacity of the prison van was complied with, and the opportunity prisoners had to exercise and have a decent meal on transfer days; *Yakovenko*, cited above, §§ 108-112, where the Court noted the frequency and number of trips and that the compartments were poorly lit and insufficiently ventilated; and *Khudoyorov v. Russia*, no. 6847/02, §§ 117-119, ECHR 2005-X (extracts), where two prisoners had to take turns sitting on each other's lap in a compartment of

1 square metre, and the applicant was transported in that van no fewer than 200 times during four years of detention).

42. The Court notes the Government's argument that the requirements concerning seat size and available leg space specified in Directive 2001/85/EC were complied with in the present case (see paragraph 35 above). The domestic courts have also repeatedly referred to the Directive in prisoner transport cases (see paragraphs 19 and 20 above). The Court considers that, although prisoner transport inevitably entails certain restrictions in comparison to the transport of people who are not prisoners, in view of the possible security risks, the basic conditions for transporting prisoners should not fall unjustifiably below the minimum standard that State authorities have themselves committed to provide to the overall population. Against that background, the Court accepts the approach taken by the domestic courts that the space available for the detainees in the prison transport van was comparable to that required, as a minimum standard, for people who were not prisoners.

43. As to the absence of a seat belt or handles in the compartment, the Court observes that the CPT generally recommends that vans be fitted with adequate seating and fixtures that would prevent prisoners from losing their balance when a vehicle moves (see paragraph 26 above). The national legislation does not require that all vehicles be fitted with seat belts (see paragraph 17 above).

44. Although duly noting the CPT's recommendations regarding seat belts – the use of which would reduce safety hazards – the Court has recently found that the absence of a seat belt alone cannot lead to a violation of Article 3 (see *Voicu v. Romania*, no. 22015/10, § 63, 10 June 2014). While it does not exclude that, under certain circumstances and in combination with other factors, the lack of a seat belt or handles might give rise to concerns under Article 3, it nevertheless finds no aggravating factors in the instant case (compare with *Engel v. Hungary*, no. 46857/06, § 28, 20 May 2010, where the applicant was a paraplegic and his wheelchair was left unsecured in a moving vehicle; and *Voicu* (cited above), where complete darkness in a prison van compartment was mentioned as a relevant factor).

45. In the light of the foregoing, and noting that, in the instant case, the applicant spent only a short time in the van compartment on one occasion, the Court does not consider that the treatment in issue attained the minimum level of severity required by Article 3 of the Convention. There has accordingly been no violation of this provision.

B. Alleged violation of Article 8 of the Convention

1. The parties' submissions

46. The Government submitted that Article 8 was not applicable to the present case, since it did not provide a detainee with an unconditional right to leave prison to attend the funeral of a family member. In the instant case, the applicant had accepted that the prison leave would entail certain restrictions (see paragraph 7 above). Considering that the transport conditions overall had not violated Article 3 of the Convention, the applicant could not claim that he had had to forego attending funeral owing to reasons attributable to the State. The Government also submitted that, in the domestic proceedings and before the Court, the applicant had provided contradictory arguments as to why he had decided not to attend the funeral (compare paragraphs 14 above and 47 below).

47. The applicant argued that, despite being allowed to go, he had decided not to attend his grandmother's funeral owing to the requirement that he wear hand and ankle cuffs. He considered the ankle cuffs – the use of which he had not been made aware of before the prison leave – to be particularly humiliating, as they could not be hidden from his relatives at the funeral. In his opinion, the use of ankle cuffs had not been proportionate to the aim of limiting security risks. The applicant made no mention of the rest of the transport conditions or explain how they had affected his Article 8 rights.

2. The Court's assessment

48. The Court notes that Article 8 does not guarantee a detained person an unconditional right to leave prison for family reasons (see *Płoski v. Poland*, no. 26761/95, § 38, 12 November 2002). However, refusing to allow an applicant to attend the funeral of a close family member (see *Płoski*, cited above, § 32) or imposing deterring and/or ambiguous restrictions on the use of such leave (see *Giszczak v. Poland*, no. 40195/08, § 39, 29 November 2011, where a prisoner was not given timely and adequate information about the conditions of his prison leave, namely an obligation that he wear prison clothes and chains, which resulted in his refusing to attend a funeral) may still constitute an interference with a prisoner's right to respect for his private and family life.

49. In the present case, the Court notes that the applicant was granted leave to attend his grandmother's funeral, but he decided not to attend it owing to the related restrictions imposed. Having regard to the applicant's submissions (see paragraph 47 above), the Court observes that he limited his complaint to a particular restriction placed on that right to prison leave, namely the requirement that he wear hand and ankle cuffs. In that respect, the Court notes that the applicant acknowledged, even if briefly, before

departing that he would have to wear hand and ankle cuffs during his leave (see paragraphs 7 and 9 above), and that he made contradictory statements to the prison and the domestic courts about his fear of being humiliated in front of his family (see paragraphs 11, 12 and 14 above). However, the Court does not consider it necessary to examine those aspects any further, as it has already declared the complaint concerning the requirement to wear hand and ankle cuffs inadmissible (see paragraph 4 above). In the absence of any argument by the applicant regarding his complaint as communicated to the respondent Government (see paragraphs 3 and 28 above), the Court considers that the complaint under this head is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 3 of the Convention regarding the transport conditions imposed on the applicant admissible, and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 3 of the Convention.

Done in English, and notified in writing on 30 October 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith
Registrar

Robert Spano
President