



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

THIRD SECTION

CASE OF GONDAL v. GREECE

(Application no. 21404/21)

JUDGMENT

STRASBOURG

22 October 2026

This judgment is final but it may be subject to editorial revision.

In the case of Gondal v. Greece,

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

Úna Ní Raifeartaigh, *President*,

Canòlic Mingorance Cairat,

Vasilka Sancin, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 1 October 2026,

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

PROCEDURE

1. The case originated in an application against Greece lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 8 April 2021.

2. The applicant was represented by Mr A. Kazanas, a lawyer practising in Thessaloniki.

3. The Greek Government (“the Government”) were given notice of the application.

THE FACTS

4. The applicant’s details and information relevant to the application are set out in the appended table.

5. The applicant complained of the inadequate conditions of his detention and of the lack of any effective remedy in domestic law in respect of inadequate conditions of detention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicant complained under Article 3 of the Convention that he had been detained in the Diavata Prison from 15 January 2020 until 9 April 2021 when he was transferred to Neapoli prison. He had allegedly been kept in a 15 sq. m cell with another nine inmates in inhuman and degrading conditions due to severe overcrowding, having had less than 3 sq. m of personal space. He complained of the generally deplorable living conditions, in particular of lack of hygiene and cleaning, insufficient heating and lack of activities. He further claimed that he had been detained in a mouldy cell infested with insects.

7. The Government asked the Court to reject the application on the grounds of non-exhaustion of domestic remedies on account of the applicant’s failure to lodge a compensatory action with the domestic courts

based on Article 105 of the Introductory Law to the Civil Code for the conditions of his detention. They maintained that the applicant knew that he would be transferred on the following day and therefore he had not intended to prevent the continuation of his detention under the alleged conditions but to obtain an ex-post finding of a violation of Article 3 of the Convention. The applicant refuted these allegations arguing that he had no prior knowledge of his transfer to the Neapoli prison. He submitted that he had been informed of the transfer on 9 April 2021, the day on which it took place, in accordance with the general practice followed for security reasons.

8. The Court notes that on the day the applicant lodged his application, namely on 8 April 2021, he was still detained in the Diavata Prison. The Court reiterates its findings in *Papadakis and Others v. Greece*, no. 34083/13, §§ 47-48, 25 February 2016, and finds no argument capable of persuading it to reach a different conclusion in the present case (see also *Tasios and Others v. Greece* ([Committee] (dec.), nos. 70606/17 and 6 others, §§ 29-35, 26 May 2020). The Government did not substantiate their assertion that the applicant had already been aware of the transfer to another prison on the following day, nor is there any material in the case file capable of establishing that he had had prior knowledge of the transfer. The Court therefore dismisses the Government's preliminary objection.

9. The Government also described in detail the overall conditions of the applicant's detention in the Diavata Prison, maintaining that they did not attain the level of severity required to fall within the scope of Article 3 of the Convention. The Government further submitted that the applicant had been held in a 22 sq. m cell with another five to seven inmates, but did not specify the exact occupancy.

10. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, ECHR 2016). It reiterates its finding in *Muršić*, cited above, that a strong presumption of a violation of Article 3 arises where the personal space available to a detainee falls below 3 sq. m of floor surface. That strong presumption will normally be capable of being rebutted only if the cumulative conditions identified in *Muršić* are met. That is the case where the reductions in the required minimum personal space are short, occasional and minor; they are accompanied by sufficient freedom of movement outside the cell and adequate out-of-cell activities; and the applicant is confined in what is, when viewed generally and having regard to the general aspects of detention identified in the Court's case-law, an appropriate detention facility, with no other aggravating aspects arising from the conditions of detention (see *Muršić*, cited above, §§ 116-38).

11. The Court observes that according to the Government's account the applicant had, for unspecified periods of time, been accommodated with another seven inmates in a 22 sq. m cell. He therefore disposed of 2,75 sq. m of personal space. It further follows from the documents provided by the

Government that the prison had been in a state of overall overpopulation. The Government failed to produce any records showing the prison population on a cell-by-cell basis and with reference to specific periods of time and did not indicate for how long the applicant had actually disposed of less than 3 sq. m. The above findings also coincide with the observations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding the Diavata Prison. Its report of 2020, established following a visit in March-April 2019 (CPT/Inf (2020) 15), provides at least to some degree a reliable basis for the Court's assessment particularly as the Government have not demonstrated that the conditions identified therein, such as overcrowding, had significantly improved by the material time (see, *mutatis mutandis*, *Becciev v. Moldova*, no. 9190/03, § 41, 4 October 2005).

12. In these circumstances, the reduction of the required personal space cannot be regarded as "short, occasional and minor" within the meaning of the Court's case-law (see *Muršić*, cited above, § 130). It follows that in the present case the strong presumption of a violation of Article 3 cannot be rebutted.

13. The above finding renders it unnecessary for the Court to consider separately the rest of the applicant's allegations regarding his conditions of detention (see *Igbo and Others v. Greece*, no. 60042/13, § 46, 9 February 2017).

14. The complaint is therefore admissible and discloses a breach of Article 3 of the Convention.

II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

15. The applicant further complained under Article 13 of the Convention that he did not have at his disposal an effective remedy with respect to his Article 3 complaints.

16. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has examined the main legal question raised in the present application and that there is no need to give a separate ruling under Article 13 of the Convention (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. Regard being had to the documents in its possession and to its case-law (see, in particular, *Muršić*, cited above) the Court considers it reasonable to award the applicant 5,900 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

18. The Court also considers it reasonable to award the applicant the amount of EUR 250 for costs and expenses incurred in the proceedings before it, plus any tax that may be chargeable to him.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 3 of the Convention concerning the applicant's detention in the overcrowded conditions in the Diavata prison admissible and *holds* that there is no need to examine separately the remaining complaints raised by the applicant;
2. *Holds* that this application discloses a breach of Article 3 of the Convention concerning the applicant's detention in the overcrowded conditions in the Diavata prison;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months:
 - (i) EUR 5,900 (five thousand and nine hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 250 (two hundred and fifty euros), plus any tax that may be chargeable to him, 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.

Done in English, and notified in writing on 22 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Úna Ní Raifeartaigh
President

GONDAL v. GREECE JUDGMENT

APPENDIX

Application raising complaints under Articles 3 and 13 of the Convention
(inadequate conditions of detention and lack of any effective remedy in domestic law to complain about them)

Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration	Specific grievances
21404/21 08/04/2021	Nabeel GONDAL 1994	Diavata Prison 15/01/2020 - 09/04/2021 1 year and 2 months and 26 days	mouldy or dirty cell, infestation of cell with insects/rodents, bunk beds, lack of privacy for toilet, inadequate temperature, lack of or restricted access to leisure or educational activities, absence of sanitary protection measures during COVID-19 pandemic , no or restricted access to warm water