



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

FIFTH SECTION

CASE OF B.K. v. SWITZERLAND

(Applications nos. 24268/21 and 55351/21)

JUDGMENT

Art 6 § 1 (civil) • Inequality of arms in appeal proceedings before the Federal Supreme Court (“FSC”) • FSC’s failure to provide reasons for not giving the applicant an opportunity to comment on information it procured on its own initiative, explicitly referred to and, at least subsidiarily, on which it dismissed the appeal as abusive

Prepared by the Registry. Does not bind the Court.

STRASBOURG

22 October 2026

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 B.K. v. Switzerland,

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

Kateřina řimáčková, *President*,

María Elósegui,

Andreas Zünd,

Diana Sârcu,

Mykola Gnatovskyy,

Sébastien Biancheri,

Nicholas Emiliou, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 24268/21 and 55351/21) against the Swiss Confederation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Mr B.K., a Swiss national (“the applicant”), on 5 May 2021 and 14 October 2021 respectively;

the decision to give notice to the Swiss Government (“the Government”) of the complaints concerning Article 3, Article 6 § 1 (civil limb), Article 8 § 1 and Article 13 of the Convention and to declare the complaints under Article 2 and Article 6 §§ 1 (criminal limb) and 3 (a) of the Convention inadmissible;

the decision not to have the applicant’s name disclosed;

the observations submitted by the Government and the observations in reply submitted by the applicant;

the comments submitted by the United Nations Working Group of Experts on People of African Descent, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 29 September 2026,

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

INTRODUCTION

1. The case concerns the conditions of the applicant’s detention at Pöschwies Prison in Switzerland from 17 August 2018 until 24 March 2021. It raises issues mainly under Article 3, Article 6 § 1, Article 8 § 1 and Article 13 of the Convention.

THE FACTS

2. The applicant was born in 1995. He was represented by Mr P. Stolkin, a lawyer practising in Zürich.

3. The Government were represented by their acting Agent, Mr A. Scheidegger, of the Federal Office of Justice.

4. The facts of the case may be summarised as follows.

I. EVENTS LEADING UP TO THE APPLICANT'S DETENTION AT PÖSCHWIES PRISON

5. The applicant spent a significant part of his youth in various State care institutions and correctional facilities.

6. In 2016 he was again remanded in custody and transferred to Pöschwies Prison, which usually holds convicted prisoners sentenced to at least one year's imprisonment.

7. In March 2017 the applicant was sentenced to 18 months' imprisonment, which, owing to the time already served in pre-trial and security detention (*Untersuchungshaft* and *Sicherheitshaft*), was considered to have already been served in part.

8. On 28 June 2017, a few months before his scheduled release, the applicant was informed that he would once again be placed in solitary confinement. During that discussion, the applicant allegedly attacked members of the prison staff. The ensuing fight resulted in injuries to several staff members as well as to the applicant.

9. On 29 September 2017, immediately after serving his prior prison sentence, the applicant was again remanded in custody, *inter alia*, in connection with the incident of 28 June 2017 (see paragraph 8 above). After charges were brought in 2019, his pre-trial detention continued as security detention.

II. DETENTION AT PÖSCHWIES PRISON

10. The applicant spent the first months of his detention in different correctional facilities. On 17 August 2018 he was transferred back to Pöschwies Prison, where he was detained in the high-security wing under a special regime, "SI 1+". He remained in Pöschwies Prison until his transfer to Zürich Prison on 20 January 2022, except for three short periods of detention at the Rheinau Forensic Psychiatric Clinic (1-13 February 2019, 11-24 April 2019 and 18-23 October 2019) and one short period of detention at Lenzburg Prison (from 3 June 2019 until 10 July 2019).

11. Under the "SI 1+" regime, the applicant was held in a cell measuring approximately 11 sq. m which was equipped with a sealed window, fixed sleeping and sanitary facilities, a table and a chair. He remained in the cell for 23 hours per day without any contact with other prisoners. During this time, he had limited access to books and television. For his daily hour of outdoor activity, he was kept separate from other prisoners and was initially restrained with hand and foot shackles. He was allowed telephone calls, correspondence, and visits to a limited extent. However, visits took place while he was shackled and separated from visitors by a glass panel.

12. This regime was ordered and extended every three months by decisions of the Office for the Execution of Sentences of the Canton of Zürich, Pöschwies Prison (*Amt für Justizvollzug des Kantons Zürich, Justizvollzugsanstalt Pöschwies* – “the prison authority”), on the basis of Article 78 (b) of the Swiss Criminal Code (*Schweizerisches Strafgesetzbuch* – “the Criminal Code”; see paragraph 45 below), section 23a(d) of the Execution of Sentences Act of the Canton of Zürich (*Straf- und Justizvollzugsgesetz* – “the Execution of Sentences Act”; see paragraph 46 below), section 122(3) and (4) of the Ordinance on the execution of sentences of the Canton of Zürich (*Justizvollzugsverordnung* – “the Ordinance on the execution of sentences”; see paragraph 47 below) and sections 7, 8 and 9 of the Pöschwies Prison Rules (*Hausordnung Justizvollzugsanstalt Pöschwies*; see paragraph 49 below). Each decision contained information on available legal remedies, specifying that it could be appealed against within 30 days (section 167 of the Ordinance on the execution of sentences in conjunction with section 22(1) of the Administrative Justice Act of the Canton of Zürich (*Verwaltungsrechtspflegegesetz* – “the Administrative Justice Act”; see paragraph 48 below)). Any appeal, however, would be deprived of suspensive effect in accordance with section 25(3) of the Administrative Justice Act.

13. In addition to these general restrictions, numerous disciplinary measures were taken against the applicant. As a result, he was, *inter alia*, placed under the disciplinary punishment-cell regime (*Arrest*) multiple times.

14. On 21 August 2019 the prison authority decided that the applicant should no longer be afforded one hour of outside activity at weekends and on public holidays. That decision was based on section 23a and section 20(2) of the Execution of Sentences Act and section 122(3) and (4) and section 10(6) of the Ordinance on the execution of sentences. It again included information on available legal remedies, specifying that the decision could be appealed against within 30 days (section 167 of the Prisons Act in conjunction with section 22(1) of the Administrative Justice Act). Any appeal would once again be deprived of suspensive effect in accordance with section 25(3) of the Administrative Justice Act.

15. To facilitate the applicant’s daily outdoor activity, the prison authority constructed a special cell with direct access to a prison yard. The applicant was first transferred to this cell on 27 October 2020. According to the Government, he caused substantial damage to the cell immediately upon arrival, necessitating extensive renovation work. Consequently, his permanent transfer to the cell only took place on 6 April 2021. From that point onwards, the applicant was, in principle, granted access to the prison yard for one hour each day, including at weekends and on public holidays, without being shackled.

16. The applicant’s and the Government’s accounts of the former’s behaviour during his detention and the prison staff’s behaviour towards him differ considerably.

17. The Government submitted that the applicant had displayed extremely violent and confrontational behaviour throughout his entire detention, including prior to his transfer to Pöschwies Prison. He had used almost every conceivable opportunity to attack, threaten and insult the prison staff, destroy or damage the prison facilities and furniture and hence disrupt the smooth functioning of the prison.

18. The applicant did not in principle deny that incidents of such nature had occurred. However, he questioned the Government's portrayal of them and submitted that his behaviour had been triggered by the inhuman and desperate situation he had been put in, namely by being held in long-term solitary confinement and guarded by the same prison staff members who – from his perspective – had been to blame for his ongoing and allegedly unjustified detention. The applicant further asserted that he had been denied proper medical care and that the prison staff had mistreated, insulted and provoked him on multiple occasions. Those allegations were disputed by the Government.

III. PROCEEDINGS IN APPLICATION No. 24268/21

19. The applicant appealed against the decision to no longer allow him one hour of outdoor activity at weekends and on public holidays (see paragraph 14 above). On 24 March 2020 the Directorate of Justice and Home Affairs of the Canton of Zürich (*Direktion der Justiz und des Innern* – “the Directorate”) dismissed the appeal.

20. The applicant lodged a further appeal against the Directorate's decision with the Administrative Court of the Canton of Zürich (“the Administrative Court”), together with a request for interim measures. He requested that he immediately be granted one hour of outdoor activity per day, including at weekends and on public holidays. He argued, *inter alia*, that domestic and international law, including Article 3 of the Convention, provided every prisoner the right to spend at least half an hour per day outside, including at weekends and on public holidays.

21. On 8 June 2020 the Administrative Court rejected the request for interim measures. By a judgment of 4 August 2020, it also dismissed the appeal. It essentially held that pursuant to federal law, the matter fell under the exclusive jurisdiction of the criminal court responsible for ordering and terminating the detention.

22. The applicant lodged an appeal and a request for interim measures with the Federal Supreme Court.

23. On 14 October 2020 the Federal Supreme Court rejected the request for interim measures.

24. On 27 October 2020, while the main proceedings were still pending, the applicant allegedly damaged the new cell with direct access to the prison yard (see paragraph 15 above). Following an enquiry by the Federal Supreme

Court about the progress of the new cell's construction, the prison authority informed the court about that incident. The applicant submitted that he had not been informed of this exchange of information and had therefore been unable to comment on it in the proceedings.

25. By a judgment of 17 November 2020 (1B_492/2020) the Federal Supreme Court, acting in a single-judge formation, dismissed the appeal, holding that it was an abuse of process. The applicant had used every opportunity to insult, threaten and attack the prison staff, proving that he was not genuinely interested in exercising his right to outdoor activity. One could not demand a right to daily outdoor activity and at the same time systematically undermine the efforts undertaken to ensure the enjoyment of that right. What was more, the applicant had even destroyed the cell built precisely to provide him with the possibility of daily outdoor activity.

IV. PROCEEDINGS IN APPLICATION No. 55351/21

26. From the beginning of his detention, the applicant complained to the authorities that Pöschwies Prison was not a suitable place for him to be held in pre-trial and security detention, notably because he was being guarded by the same staff members whose testimony formed the basis for his ongoing and allegedly unjustified detention. The resulting vicious circle of violence and counter-violence, he argued, could only be broken by transferring him to a more suitable prison.

27. On 4 October 2018 the applicant lodged a formal request to be transferred to another prison, preferably Zürich Prison. The prison authority rejected that request on 29 October 2018.

28. On 17 November 2018 the prison authority also ordered the extension of the "SI 1+" regime at Pöschwies Prison for another three months.

29. The applicant appealed against those two decisions. On 4 April 2019 the Directorate dismissed the appeal.

30. The applicant lodged a further appeal against the Directorate's decision with the Administrative Court and requested a transfer to another prison or, alternatively, to another wing of Pöschwies Prison, where he would not be guarded by the same staff members who had been involved in the incident of 28 June 2017. He argued, *inter alia*, that the current conditions of detention at Pöschwies Prison, notably his ongoing solitary confinement, violated provisions of domestic and international law, including Article 3 of the Convention.

31. By a judgment of 6 February 2020, the Administrative Court dismissed the appeal. It again essentially held that it lacked jurisdiction in the matter.

32. On 20 August 2020 the Federal Supreme Court quashed that judgment and sent the case back to the Administrative Court (1B_141/2020 and 1B_142/2020). It concluded that federal law did not provide that the criminal

court responsible for ordering and terminating the detention had exclusive jurisdiction to decide on the request at issue. The question of jurisdiction therefore had to be determined in accordance with cantonal law, a matter on which it lacked competence. However, since the ongoing negative conflict of jurisdiction violated the applicant's right of access to a court, it nonetheless ordered the Administrative Court to rule on the merits of the appeal.

33. By a judgment of 19 November 2020, the Administrative Court dismissed the applicant's appeal on the merits. It concluded that a right to be transferred to another prison could not be claimed on the basis of either the fact that the applicant might, in part, be guarded by staff members who had been involved in the incident of 28 June 2017, or the alleged conditions of detention. If the current conditions of detention were unlawful, they would first have to be improved on site. A transfer to another prison was warranted only if this proved impossible. However, in view of the applicant's behaviour, there was, in any event, no alternative to detaining him under the restrictive regime currently in place at Pöschwies Prison.

34. The applicant appealed against that judgment. He submitted that being detained in a prison primarily used for convicted prisoners violated the presumption of innocence as guaranteed under international and domestic law. The principle of separation following from that presumption required him to be held in a prison for prisoners in pre-trial and security detention, to avoid any prejudgment by the courts and the general public.

35. By a judgment of 24 March 2021 (1B_52/2021), which was received by the applicant's lawyer on 14 April 2021, the Federal Supreme Court dismissed the appeal. It held that it was, in principle, only called upon to review the contested judgment for violations of law that had been asserted and substantiated in the appeal. It concluded that neither the presumption of innocence nor the principle of separation warranted the applicant's transfer to another prison. It also stated that, in his appeal, the applicant had not explicitly raised a complaint regarding the allegedly unlawful conditions of his detention. It further noted, in a summary manner, that while the conditions of detention might, at some point in the future, necessitate the applicant's transfer to a less restrictive prison regime, the conditions currently imposed were, in any event, still justified in view of the risk he posed to others. However, the prison authority remained under an obligation to make every possible effort to gradually ease the conditions of detention if the applicant were to be held under that regime for a prolonged period.

V. OTHER RELEVANT INFORMATION

36. On 27 August 2020 the Administrative Court ruled that the refusal to allow the applicant outdoor activity between 6 and 18 July 2017 at the Rheinau Forensic Psychiatric Clinic had been incompatible with, *inter alia*,

Article 3 of the Convention, and ordered the clinic to pay him 1,500 Swiss francs (CHF) in damages.

37. On 11 March 2021 the Zürich High Court ruled that the conditions of detention at Pfäffikon Prison, where the applicant had been detained between 6 and 26 January 2017, had, *inter alia*, violated Article 3 of the Convention. However, it considered a claim for damages lodged by the applicant to be time-barred. The applicant successfully appealed against that judgment in so far as it concerned the refusal to award damages and was ultimately awarded compensation in the amount of CHF 4,000.

38. In three letters addressed to the Government dated 9 June 2021, 3 September 2021 and 29 March 2022, the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment expressed his concerns, asked to be provided with further information and demanded, *inter alia*, the applicant's release from solitary confinement as well as a prompt and impartial investigation into the matter in line with domestic and international human rights standards.

39. In a letter addressed to the Government dated 22 September 2021, the National Commission for the Prevention of Torture also expressed concerns regarding the conditions in which the applicant was detained and called for a plan to gradually improve them.

40. On 20 January 2022 the applicant was transferred to Zürich Prison. On 31 October 2022 the Zürich High Court ordered his release from security detention.

41. However, on 8 November 2022 the applicant was again remanded in custody in relation to the offences he had allegedly committed during his detention between 22 November 2018 and 28 June 2022.

42. In October 2023 the former head of the prison authority, acting in a private capacity, issued a public apology to the applicant for the conditions of detention at Pöschwies Prison.

43. By a judgment of 8 November 2023, the Dielsdorf District Court sentenced the applicant to two years and six months' imprisonment for the offences he had committed during his detention between 22 November 2018 and 28 June 2022. It considered that the conditions of detention imposed on the applicant at the time constituted a significant mitigating factor. On the same day, it also ordered the applicant's release from security detention.

44. According to the Government, the applicant lodged applications for compensation with the competent authority on the grounds of the allegedly unlawful conditions of detention at Pöschwies Prison, similar to his ultimately successful actions concerning other periods of detention (see paragraphs 36-37 above). However, the processing of those applications had been temporarily suspended at the applicant's request.

RELEVANT LEGAL FRAMEWORK

45. The relevant provisions of the Criminal Code (Systematic Collection of Federal Law 311.0), as in force at the material time, read as follows:

Article 78 – Solitary confinement

“Solitary confinement in the form of uninterrupted separation from other prison inmates may only be ordered:

- (a) for a maximum of one week at the start of the sentence in order to initiate the execution of the sentence;
- (b) for the protection of the prison inmate or of third parties;
- (c) as a disciplinary sanction.”

46. The relevant provisions of the Execution of Sentences Act (Systematic Collection of Cantonal Law 331), as in force at the material time, read as follows:

Section 23a

“In order to maintain or restore security or order within the institution, other measures may be ordered in place of or in addition to direct coercion, such as:

- (a) the confiscation of items that have been misused or are likely to be misused,
- (b) the temporary restriction of communal activities or the exclusion of individuals from communal activities,
- (c) the temporary restriction of contact with the outside world,
- (d) the transfer of individuals to another prison, to another wing of the same prison, or to solitary confinement, subject to the jurisdiction of the authority which ordered the detention.”

47. The relevant provisions of the Ordinance on the execution of sentences (Systematic Collection of Cantonal Law 331.1), as in force at the material time, read as follows:

Section 10 – Pöschwies Prison

“(1) At Pöschwies Prison, custodial sentences, preventive detention (*Verwahrung*) and measures under Article 59 § 3 of the Criminal Code shall be served by male prisoners in a closed detention regime.

(2) The following persons shall be admitted to Pöschwies Prison:

- (a) persons sentenced to serve a sentence or the remainder of a sentence of at least one year, although as a rule no admission shall take place less than six months before the date of conditional release,
- (b) persons sentenced to preventive detention,
- (c) persons sentenced to an inpatient measure under Article 59 of the Criminal Code, provided that, and for as long as, the treatment must be carried out under a closed regime for security reasons.

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(3) In special cases, the [prison] authority may authorise the enforcement of pre-trial detention, security detention or shorter periods of imprisonment.

...

(5) The prison shall ensure the care of inmates and provide meaningful occupation and, where necessary, vocational training, social counselling, medical care and pastoral support.

(6) It shall ensure security both within and outside the facility.”

Section 107 – Outdoor activity

“Prisoners shall be given the opportunity to spend at least one hour outdoors every day.”

Section 122 – Security measures

“(1) Prisons shall issue the regulations necessary to ensure security.

(2) In particular, they shall regulate:

(a) access authorisation,

(b) checks on staff, prisoners and visitors, as well as the movement of goods, and

(c) the conduct of staff and prisoners in the event of special incidents.

(3) Where there is a risk of escape or to protect visitors, staff, fellow prisoners and the property of third parties from danger, the rights to which convicted persons and visitors are entitled under this ordinance may, in individual cases, be restricted generally, either permanently or temporarily.

(4) Such restrictions shall be imposed by the director of the prison in consultation with the head of department.”

Section 167 – Appeals

“Decisions made by the prison authority and its main departments may be challenged by way of appeal in accordance with sections 19 et seq. of the Administrative Justice Act of 24 May 1959.”

48. The relevant provisions of the Administrative Justice Act (Systematic Collection of Cantonal Law 175.2), as in force at the material time, read as follows:

Section 19 – Admissibility

“(1) The following acts may be challenged by way of appeal:

(a) orders, including provisions under spatial planning law,

(b) the unlawful refusal of or delay in complying with an order that is open to challenge,

...

(4) The provisions applicable to orders shall likewise apply to the other acts referred to in subsection 1, in so far as no specific provisions exist.”

Section 22 – Lodging an appeal

“(1) An appeal shall be lodged in writing with the appeal authority within 30 days. In matters relating to voting rights, the time limit shall be five days.

...”

Section 25 – Suspensive effect

“(1) The running of the time-limit for an appeal and the lodging of the appeal shall have suspensive effect.

...

(3) The ordering authority, the appeal authority and the chair of the appeal authority may, for special reasons, issue orders to the contrary.

...”

Section 41 – Admissibility

“(1) The Administrative Court shall act as the final cantonal authority for appeals against decisions within the meaning of section 19(1).

...”

49. The relevant provisions of the Pöschwies Prison Rules, as in force at the material time, read as follows:

Section 7 – Imposition of solitary confinement

“The imposition of solitary confinement shall be governed by Article 78 and Article 90 § 1 of the Criminal Code and section 23a(d) of the Execution of Sentences Act.”

Section 8 – Short-term solitary confinement

“(1) Short-term solitary confinement may be ordered by the head of the prison, in particular as a disciplinary measure, as a temporary precautionary measure, or for therapeutic reasons (crisis intervention).

...”

Section 9 – Long-term solitary confinement

“(1) Long-term solitary confinement shall be ordered, at the request of the head of the prison, by the authority which ordered the detention. In urgent cases, the head of the prison may order solitary confinement as a precautionary measure until the authority which ordered the detention has reached a decision.

(2) The prisoner shall be given the opportunity to comment on the order for solitary confinement.

(3) The order for solitary confinement shall be reviewed at the prisoner’s request and periodically before the expiry of the ordered period, at the latest every six months. Subsections 1 and 2 shall apply *mutatis mutandis*.”

THE LAW

I. JOINDER OF THE APPLICATIONS

50. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment, in accordance with Rule 42 § 1 of the Rules of Court.

II. ALLEGED VIOLATIONS OF THE CONVENTION

A. Application no. 24268/21

1. Article 3 of the Convention

51. The applicant complained that the refusal to allow him any outdoor activity at weekends and on public holidays from 27 July 2019 to 27 October 2020 – the date on which he was first transferred to, and allegedly damaged, the new cell (see paragraph 15 above) – had violated the prohibition of torture and inhuman or degrading treatment or punishment enshrined in Article 3 of the Convention, which reads as follows:

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

2. Articles 6 § 1 and 13 of the Convention

52. The applicant also complained that the Federal Supreme Court had based its judgment on the alleged damage to the new cell without affording him the opportunity to comment on those allegations. Furthermore, he submitted that the judgment had lacked sufficient reasoning. This amounted to a violation of Article 6 § 1 of the Convention in its civil limb. The applicant lastly complained that neither the Administrative Court nor the Federal Supreme Court had addressed his complaint on the merits, that federal law failed to provide a legal basis or a clear delineation of competences in respect of complaints concerning conditions of detention, that the ensuing negative conflict of jurisdiction rendered the system of domestic remedies opaque and inaccessible, and that appeals to the authorities and administrative courts lacked automatic suspensive effect. He argued that this amounted to a violation of Article 13 of the Convention.

53. Article 6 § 1 of the Convention constitutes a *lex specialis* in relation to Article 13 of the Convention, the requirements of which are less strict than, and absorb, those of Article 6 § 1 of the Convention (see *Kudła v. Poland* [GC], no. 30210/96, § 146, ECHR 2000-XI, with further references; see also *Baka v. Hungary* [GC], no. 20261/12, § 181, 23 June 2016). The Court will therefore proceed to analyse these complaints under the civil limb of

Article 6 § 1 of the Convention only, the relevant part of which reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...”

B. Application no. 55351/21

1. Article 3 of the Convention

54. The applicant complained that the conditions of his detention at Pöschwies Prison from 17 August 2018 until 24 March 2021 – the date on which the Federal Supreme Court rendered its final judgment –, considered in their entirety, had violated the prohibition of torture and inhuman or degrading treatment or punishment as enshrined in Article 3 of the Convention. He further argued that Article 3 of the Convention also entailed a positive obligation, which, at the very least, had required further investigation into his allegations of inhuman conditions of detention.

2. Article 8 § 1 of the Convention

55. The applicant further complained that he had not been provided with adequate medical care in prison during the aforementioned period, in violation of the right to respect for private life under Article 8 § 1 of the Convention, which reads:

“Everyone has the right to respect for his private and family life, his home and his correspondence.”

III. ADMISSIBILITY

A. Exhaustion of domestic remedies

1. The parties' submissions

(a) The Government

56. The Government objected that the applicant had not exhausted domestic remedies in respect of his complaints under Article 3 of the Convention in both applications concerning the conditions of his detention, or his complaint under Article 8 § 1 of the Convention in application no. 55351/21 regarding the alleged lack of adequate medical care.

57. At the outset, they pointed out that any decision by the prison authority concerning detention arrangements could be appealed against to the Directorate (section 167 of the Ordinance on the execution of sentences and sections 19 et seq. of the Administrative Justice Act – see paragraphs 47-48 above). Decisions of the Directorate could, in turn, be appealed against to the Administrative Court (sections 41 et seq. of the Administrative Justice Act –

see paragraph 48 above) and subsequently to the Federal Supreme Court. The alleged negative conflict of jurisdiction had been resolved by the Federal Supreme Court. Moreover, it was possible to bring an action for damages in respect of conditions of detention. In their additional observations, the Government argued that the applicant should have made use of this compensatory remedy first.

58. With regard to application no. 24268/21, the Government added that the Administrative Court had considered itself to lack jurisdiction and had suggested that the applicant should appeal to the Zürich High Court. However, that legal avenue had not been pursued. In addition, the scope of the Federal Supreme Court's review had at the outset been limited to the question of whether the Administrative Court's finding of a lack of jurisdiction had been lawful. Moreover, the Federal Supreme Court had concluded that the applicant's appeal had been an abuse of process.

59. With regard to application no. 55351/21, the Government further argued, first, that the applicant had not raised, either explicitly or in substance, his complaint regarding the conditions of detention in his final appeal to the Federal Supreme Court. Rather, that appeal had been limited to the argument that his detention in a prison primarily used for convicted prisoners violated the presumption of innocence, as well as the principle of separation. Secondly, the Government submitted that the applicant could and should have made use of the available remedy to raise a complaint about the conditions of his detention before the competent authorities and courts (see paragraph 57 above), instead of merely requesting a transfer to a different prison and appealing against the corresponding decision, which was not the legal avenue intended for that purpose.

60. Lastly, the Government objected that at no stage of the domestic proceedings at issue had the applicant, either explicitly or in substance, raised a complaint under Article 8 § 1 of the Convention regarding the alleged lack of adequate medical care. Moreover, he could and should have once again availed himself of the available remedy (see paragraph 57 above), rather than requesting a transfer to a different prison and appealing against the corresponding decision.

(b) The applicant

61. The applicant asserted that he had exhausted domestic remedies in respect of both applications. He argued that the authorities and courts had at all times been aware of his persistent complaints regarding the conditions of detention at Pöschwies Prison. This was evidenced by, *inter alia*, the numerous letters and requests he had submitted to several authorities and courts and the letters from the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the National Commission for the Prevention of Torture (see paragraphs 38-39 above). Although the domestic authorities and courts had thus been given

ample opportunity to remedy the situation, they had not done so until January 2022. The applicant furthermore submitted that his detention in inhuman conditions constituted a continuing situation that neither came to an end upon his transfer to the new cell nor began only with his transfer to Pöschwies Prison.

62. The applicant further argued that no effective remedy had been available to him that he had been required to pursue for exhaustion purposes under Article 35 § 1 of the Convention. He contended that the existence of a negative conflict of jurisdiction made the system of domestic remedies unclear, opaque and effectively inaccessible. This deficiency had not been remedied by the fact that the Federal Supreme Court had resolved such a conflict in a single case. Moreover, even assuming that remedies had been available, they would have lacked automatic suspensive effect. Consequently, they would have been incapable of promptly terminating the inhuman conditions of his detention.

63. The applicant further submitted that, in any event, he had lodged an appeal against the decision discontinuing outdoor activity at weekends and on public holidays, and against the refusal to transfer him to another prison, thereby exhausting the remedy in question.

64. With regard to application no. 24268/21, the applicant added that lodging a further appeal with the Zürich High Court, as suggested by the Administrative Court, would have been futile since the High Court had also considered itself to lack jurisdiction. What was more, no court had dealt with his complaint on the merits. The only substantive review had been conducted by the Directorate. However, that administrative review had not met the requirements of Article 13 of the Convention.

65. With regard to application no. 55351/21, the applicant further argued that the transfer request had explicitly been made in relation to the inhuman conditions of detention at Pöschwies Prison and that this had also been the main line of reasoning in his appeal to the Directorate and subsequently to the Administrative Court. The complaint had implicitly also been raised in the final appeal to the Federal Supreme Court, which had addressed the question of whether the conditions of his detention were compatible with Article 3 of the Convention.

2. The Court's assessment

(a) General principles

66. The Court reiterates that the general principles on the exhaustion of domestic remedies for the purposes of Article 35 § 1 of the Convention were set out in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014) and recently quoted in *Mansouri v. Italy* ((dec.) [GC], no. 63386/16, § 84, 29 April 2025). The Court further refined these principles with respect to complaints concerning

conditions of detention in *Neshkov and Others v. Bulgaria* (nos. 36925/10 and 5 others, §§ 180-91, 27 January 2015) and *Ulemek v. Croatia* (no. 21613/16, § 71, 31 October 2019).

67. In accordance with these principles, Article 35 § 1 of the Convention requires, *inter alia*, that the complaints intended to be made subsequently to the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural means that might prevent a breach of the Convention should have been used. Where an applicant has failed to comply with these requirements, his or her application should in principle be declared inadmissible for failure to exhaust domestic remedies (see *Vučković and Others*, cited above, § 72, and *Azinas v. Cyprus* [GC], no. 56679/00, § 38, ECHR 2004-III).

68. The object of this rule is to allow the national authorities to address the allegation of a violation of a Convention right and, where appropriate, to afford redress before that allegation is submitted to the Court. If the complaint presented before the Court has not been put, either explicitly or in substance, to the national courts when it could have been raised, the national legal order has been denied the opportunity which the rule on exhaustion of domestic remedies is intended to give it to address the Convention issue. It is not sufficient that the applicant may have pursued another remedy which could have overturned the impugned measure on other grounds not connected with the complaint of a violation of a Convention right. It is the Convention complaint which must have been aired at national level for there to have been exhaustion of “effective remedies”. It would be contrary to the subsidiary character of the Convention machinery if an applicant, ignoring a possible Convention argument, could rely on some other ground before the national authorities for challenging an impugned measure, but then lodge an application before the Court on the basis of the Convention argument (see, for all of the above, *Vučković and Others*, cited above, § 75, and *Azinas*, cited above, § 38).

69. Moreover, the question of whether domestic remedies have been exhausted is normally determined with reference to the date when the application was lodged with the Court. Applicants who are still in detention under the specific circumstances of which they complain are therefore obliged to make use of an available and effective preventive remedy before bringing their complaints before the Court. However, in cases where unsatisfactory conditions of detention have already ended before the application was lodged with the Court, the use of a compensatory remedy, such as a civil action for damages, is normally an effective remedy for the purposes of Article 35 § 1 of the Convention (see *Ulemek*, cited above, §§ 81-92, and, more recently, *Sekour v. France*, no. 52496/19, §§ 74-76, 12 March 2026; for complaints under Article 5 of the Convention, see, *mutatis mutandis*, *Mansouri*, cited above, § 86). Accordingly, where a

complaint concerns a period of solitary confinement that has already ended at the time the application is lodged, applicants must first make use of the available compensatory remedies, even if they remain in detention (see *Sekour*, cited above, §§ 74-76). This approach is consistent with the Court's case-law concerning the calculation of the time-limit under Article 35 § 1 of the Convention (compare *Petrescu v. Portugal*, no. 23190/17, § 92, 3 December 2019).

(b) Application of the above principles to the present case

(i) Application no. 24268/21

70. The Court notes that the applicant appealed against the decision to no longer allow him outdoor activity at weekends and on public holidays and hence made use of the preventive remedy set out by the Government regarding his complaint under Article 3 of the Convention (see paragraphs 19-25 above).

71. However, the scope of the applicant's complaint in the present application was at the outset limited to the period of detention between 27 July 2019 and 27 October 2020 (see paragraph 51 above). Moreover, on 6 April 2021 the applicant was ultimately transferred to his new cell and he was in principle able to enjoy one hour of daily outdoor activity from then onwards, including at weekends and on public holidays (see paragraph 15 above).

72. Even though he was only transferred to Zürich Prison in January 2022 and ultimately released in October 2022, the material conditions of detention at Pöschwies Prison complained of in the present application – which were characterised by the lack of outdoor activity at weekends and on public holidays – thus ended on 6 April 2021. In contrast, the present application was lodged on 5 May 2021, that is to say approximately one month after the applicant had ceased to be detained in the conditions in question and approximately six months after the period of detention complained of had ended.

73. Having regard to the principles set out above and notwithstanding the alleged non-compliance of the preventive remedy with Article 6 § 1 and Article 13 of the Convention, the Court considers that the applicant was hence in any event obliged to make use of an effective compensatory remedy before lodging the present application in order to exhaust domestic remedies for the purposes of Article 35 § 1 of the Convention.

74. In this connection, the Court further observes that the existence of such a remedy, and the need to make use of it, were expressly relied upon by the Government (see paragraph 57 above). The applicant neither disputed the existence of that remedy nor argued that it was unavailable or ineffective in the particular circumstances of his case. On the contrary, the Court notes that the applicant himself had previously made successful use of that remedy and

had been awarded compensation by the domestic courts in respect of similar complaints concerning conditions of detention under Article 3 of the Convention (see paragraphs 36-37 above). There is therefore nothing in the material before the Court to suggest that the same avenue of redress would not have been available to him in respect of the complaints at issue in the present application.

75. Hence, the Court concludes that the applicant should have used and exhausted (see paragraph 44 above) available compensatory domestic remedies before lodging the present application and that he thus did not exhaust domestic remedies within the meaning of Article 35 § 1 of the Convention regarding his complaint under Article 3 of the Convention.

(ii) *Application no. 55351/21*

(α) Article 3 of the Convention

76. The Court notes that the applicant appealed against the decision of 17 November 2018 to prolong the “SI 1+” regime for another three months, requested a transfer to another prison or alternatively to another wing of Pöschwies Prison, and further appealed against the decision not to grant that request to the Administrative Court (see paragraphs 19-25 above).

77. However, irrespective of whether this rather unusual choice of domestic remedies in principle satisfied the requirements of Article 35 § 1 of the Convention in respect of the applicant’s complaint under Article 3 of the Convention (compare, *inter alia*, *Zlatanov v. Bulgaria* (dec.), no. 53050/21, § 174, 30 January 2024, and *Dumpe v. Latvia* (dec.), no. 71506/13, §§ 55-61, 16 October 2018), it must be borne in mind that the applicant’s final appeal to the Federal Supreme Court in that set of proceedings was limited to the argument that the presumption of innocence and the principle of separation warranted his transfer to a prison designated for prisoners in pre-trial or security detention (see paragraph 34 above). Accordingly, in its judgment of 24 March 2021, the Federal Supreme Court noted that the applicant had not raised a complaint concerning the conditions of detention at Pöschwies Prison in his last appeal (see paragraph 35 above).

78. The applicant’s argument that he had raised this complaint at earlier stages of the proceedings is of no consequence. According to the Court’s established case-law, the principles set out above (see paragraphs 67-68 above) apply to all stages of the domestic proceedings and require that the complaint must have been raised, at least in substance, at their final stage as well (compare *Azinas*, cited above, §§ 40-41, where the Grand Chamber similarly upheld the respondent Government’s preliminary objection on the exhaustion of domestic remedies on the basis that the applicant had failed to cite Article 1 of Protocol No. 1 to the Convention before the Supreme Court, and *Peacock v. the United Kingdom* (dec.), no. 52335/12, § 40, 5 January 2016).

79. Furthermore, the Court cannot accept the applicant's argument that it was sufficient that the domestic authorities and courts had at any time been aware of his complaints about the conditions of detention at Pöschwies Prison and that they had thus been given ample opportunity to remedy the alleged violation of the Convention. It follows from the Court's established case-law that even in those jurisdictions where the domestic courts are able, or even obliged, to examine the case of their own motion, applicants are not exempted from raising before them a complaint which they may intend to subsequently make to the Court, it being understood that for the purposes of exhaustion of domestic remedies the Court must take into account not only the facts but also the legal arguments presented domestically (see *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, § 171, 1 June 2023).

80. Lastly, while the non-exhaustion of domestic remedies cannot be held against an applicant if the competent authority has examined the substance of the appeal (see *Gäfgen v. Germany* [GC], no. 22978/05, § 143, ECHR 2010, and *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)* [GC], no. 32772/02, §§ 43-45, ECHR 2009), the Court is not convinced that this was the case here. The Federal Supreme Court did not examine the applicant's complaint about the conditions of his detention in substance. On the contrary, it pointed out that its judicial review was limited to the grounds adduced in the appeal (see paragraph 35 above). The subsequent summary remarks in that regard were made in passing (*obiter dictum*) and were only meant to provide guidance to the authorities and lower courts with regard to the applicant's ongoing detention and the numerous related sets of proceedings which were still pending at that point in time (see paragraphs 36-44 above). Thus, they did not amount to a consideration of the substance of the complaint within the meaning of the established case-law cited above. Accordingly, the specific circumstances of the present case can clearly be distinguished from those of *Verein gegen Tierfabriken Schweiz (VgT)* (cited above, §§ 43-45), where the complaint had only been raised in a cursory fashion and the Federal Supreme Court had – albeit briefly – nonetheless ruled on the merits of the case.

81. Hence, the Court concludes that the applicant did not exhaust domestic remedies within the meaning of Article 35 § 1 of the Convention with regard to his complaint under Article 3 of the Convention.

(β) Article 8 § 1 of the Convention

82. The Court notes that, regardless of whether the applicant's complaint regarding the alleged lack of adequate medical care falls to be examined under Article 3 or Article 8 § 1 of the Convention, he did not raise it, at least in substance, in a distinct manner in the relevant set of domestic proceedings or in an exhaustive separate set of proceedings before the present application was lodged, even though, as pointed out by the Government, he had a remedy at his disposal in this regard (see paragraph 57 above).

83. In any event, the above considerations as to the non-exhaustion of domestic remedies with regard to the complaint under Article 3 of the Convention in application no. 55351/21 (see paragraphs 76-81 above) apply, *mutatis mutandis*, to the present complaint, since the applicant's second appeal to the Federal Supreme Court in that set of proceedings likewise did not include, at least in substance, a complaint under Article 8 § 1 of the Convention about the alleged lack of adequate medical care (see paragraph 34 above).

84. The Court therefore concludes that the applicant did not exhaust domestic remedies within the meaning of Article 35 § 1 of the Convention regarding his complaint under Article 8 § 1 of the Convention.

B. Compatibility *ratione materiae*

85. Article 6 § 1 of the Convention in its civil limb is applicable to certain disputes relating to the conditions of detention and the restrictions imposed on prisoners (see *Wick v. Germany*, no. 22321/19, § 73, 4 June 2024). This includes restrictions on outdoor activity for prisoners in solitary confinement (see *Stegarescu and Bahrin v. Portugal*, no. 46194/06, §§ 37-38, 6 April 2010).

86. The set of proceedings in application no. 24268/21 concerned the applicant's appeal against the decision to no longer allow him one hour of outdoor activity at weekends and on public holidays (see paragraphs 19-25 above).

87. Accordingly, the Court holds that Article 6 § 1 of the Convention is applicable in its civil limb.

C. Conclusion on admissibility

1. Application no. 24268/21

88. The Court concludes that the complaint under Article 3 of the Convention in application no. 24268/21 must be declared inadmissible for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention (see paragraphs 70-75 above).

89. In contrast, the Court holds that the applicant has exhausted domestic remedies with regard to the complaints under the civil limb of Article 6 § 1 of the Convention and that those complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention (see paragraphs 85-87 above). They must therefore be declared admissible.

2. Application no. 55351/21

90. The Court lastly concludes that application no. 55351/21 must be declared inadmissible in its entirety for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention (see paragraphs 76-84 above).

IV. MERITS

A. Preliminary remark

91. Having regard to the assessment of the admissibility of the present applications (see paragraphs 56-90 above), the Court would like to point out that its assessment of the merits is at the outset limited to the complaints raised under the civil limb of Article 6 § 1 of the Convention in application no. 24268/21.

B. The parties' submissions

1. The Government and the applicant

92. The arguments adduced by the Government and the applicant with respect to the complaints under Article 6 § 1 of the Convention in application no. 24268/21 are in essence the same as those put forward regarding the alleged lack of an effective remedy in the context of the admissibility of the application under Article 35 § 1 of the Convention (see, for the Government's arguments, paragraphs 56-59 above, and, for the applicant's arguments, paragraphs 52 and 61-65 above). The Government further submitted that the Federal Supreme Court had found the applicant's appeal to constitute an abuse of process, regardless of the exchange of information between the prison authority and the Federal Supreme Court, and that not every argument called for an explicit and detailed response by the courts. The applicant further submitted that, by virtue of the principle of equality of arms, he should have been afforded an opportunity to comment on the impugned exchange of information in any event.

2. The United Nations Working Group of Experts on People of African Descent

93. The United Nations Working Group of Experts on People of African Descent stressed that a fair consideration of claims involving people of African descent required a frank and explicit consideration of the existing systemic racism and the failures to mitigate the routine operation of bias against people of African descent in public decision-making.

C. The Court's assessment

1. General principles

94. The Court reiterates that the adversarial principle and the principle of equality of arms, which are closely linked, are fundamental components of the concept of a “fair hearing” within the meaning of Article 6 § 1 of the Convention (see *Regner v. the Czech Republic* [GC], no. 35289/11, § 146, 19 September 2017). They require a “fair balance” between the parties: each party must be afforded a reasonable opportunity to present his or her case under conditions that do not place him or her at a substantial disadvantage *vis-à-vis* his or her opponent or opponents (see *Andrejeva v. Latvia* [GC], no. 55707/00, § 96, ECHR 2009). Moreover, the parties must be given the opportunity to have knowledge of and comment on all evidence adduced or observations filed, even by an independent member of the national legal service, with a view to influencing the court's decision (see *Kress v. France* [GC], no. 39594/98, §§ 65 and 74, ECHR 2001-VI).

95. The latter requirement also applies where none of the parties had the opportunity to comment on the piece of evidence adduced or the observation filed and extends to non-binding advisory opinions intended to assist the court as well as information and opinions obtained by the court on its own initiative in order to reach an informed decision. Moreover, the effect such documents actually had on the decision is of little importance. It is only for the parties to a dispute to decide whether or not a document calls for their comments and the Court does not need to determine whether the omission to communicate a document caused the applicant prejudice. The Court has thus frequently found violations of Article 6 § 1 of the Convention on the ground that the applicant had neither been invited to submit comments on, nor at least been informed of, observations filed by a lower court instance, by an administrative authority or by the adverse party (regarding violations see, in chronological order, *Nideröst-Huber v. Switzerland*, 18 February 1997, §§ 27-29, *Reports of Judgments and Decisions* 1997-I; *F.R. v. Switzerland*, no. 37292/97, §§ 37-40, 28 June 2001; *Ziegler v. Switzerland*, no. 33499/96, § 38, 21 February 2002; *Contardi v. Switzerland*, no. 7020/02, §§ 40-46, 12 July 2005; *Spang v. Switzerland*, no. 45228/99, §§ 28-34, 11 October 2005; *Ressegatti v. Switzerland*, no. 17671/02, §§ 28-33, 13 July 2006; *Kessler v. Switzerland*, no. 10577/04, §§ 29-31, 26 July 2007; *Werz v. Switzerland*, no. 22015/05, §§ 52-55, 17 December 2009; *Schaller-Bossert v. Switzerland*, no. 41718/05, §§ 39-43, 28 October 2010; and *Ellès and Others v. Switzerland*, no. 12573/06, §§ 24-29, 16 December 2010; no violation (communication of observations to the applicant “for information”) was found in *Joos v. Switzerland*, no. 43245/07, §§ 27-35, 15 November 2012).

2. *Application of the above principles to the present case*

96. The Court notes that the information that the applicant was alleged to have caused substantial damage to the new cell built to facilitate his daily outdoor activity had been passed on to the Federal Supreme Court and included in the file for its consideration, without the applicant being informed and afforded an opportunity to comment on it. The Court further observes that the Federal Supreme Court had procured this information on its own initiative because it had considered it to be potentially relevant to the outcome of the case. Moreover, it included an explicit reference to the alleged destruction of the new cell in its judgment and, at least as a subsidiary consideration, based its conclusion regarding the abusive nature of the applicant's appeal on that piece of information (see paragraph 25 above).

97. Irrespective of the fact that it is only for the parties to a dispute to decide whether or not a document calls for their comments (see paragraph 95 above), the Court can hence not accept the Government's argument that the Federal Supreme Court's finding that the applicant's appeal constituted an abuse of process was independent of this exchange of information and that its inclusion in the case file had accordingly been without relevance to the outcome of the case (see paragraph 92 above). All the more so, it cannot be maintained that the information at issue was manifestly devoid of any relevance and that an opportunity to comment on it would hence not have had any impact on the outcome of the case, in which the legal finding had never been in doubt (compare *Asnar v. France*, no. 12316/04, § 26, 18 October 2007 and *Janáček v. the Czech Republic*, no. 9634/17, § 48, 2 February 2023, as well as the cases cited therein). Lastly, the Court observes that the Federal Supreme Court failed to provide any reasons for refraining from giving the applicant an opportunity to comment on the information provided by the prison authority (compare *Janáček*, cited above, § 53).

98. Irrespective of the applicant's remaining complaints in this respect, this is sufficient to enable the Court to conclude that there has been a violation of Article 6 § 1 of the Convention in its civil limb (see, *mutatis mutandis*, *F.R. v. Switzerland*, cited above, § 41).

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

99. 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

100. The applicant claimed 2,000 euros (EUR) in respect of pecuniary and non-pecuniary damage per day of detention, amounting to a total of EUR 2,372,000, plus EUR 237,200 for each of his close family members.

101. The Government argued that the Court should reject the claim relating to the applicant's family members and award a maximum of EUR 20,000 in respect of pecuniary and non-pecuniary damage to the applicant should a violation of the Convention be found.

102. The Court notes that the applicant did not claim any specific amount in respect of pecuniary or non-pecuniary damage arising from the alleged procedural shortcomings in the set of domestic proceedings complained of under Article 6 § 1 of the Convention in application no. 24268/21, but only from the alleged conditions of detention that formed the subject of the complaints under Article 3 and Article 8 § 1 of the Convention in both applications – complaints which have been declared inadmissible by the Court for non-exhaustion of domestic remedies (see paragraphs 88-90 above).

103. In any event, there is no causal connection between the established violation of Article 6 § 1 of the Convention in application no. 24268/21 and any pecuniary damage sustained, and the Court considers that the finding of a breach of the Convention affords sufficient just satisfaction for any non-pecuniary damage suffered in that connection (compare *Nideröst-Huber*, cited above, § 37; *F.R. v. Switzerland*, cited above, §§ 45-46; and *Ziegler*, cited above, § 43).

B. Costs and expenses

104. The applicant claimed a total of 534,746.68 Swiss francs (CHF – approximately EUR 572,800) in respect of the costs and expenses incurred before the domestic courts in several sets of proceedings and the Court.

105. The Government submitted that the Court should award a maximum of CHF 21,500 in total for the costs and expenses incurred both before the domestic courts and the Court.

106. 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 were actually and necessarily incurred and are reasonable as to quantum.

107. In this connection, the Court reiterates that the complaint under Article 3 of the Convention in application no. 24268/21 and the whole of application no. 55351/21 have been declared inadmissible for non-exhaustion of domestic remedies (see paragraphs 88-90 above). The finding of a violation was limited to the complaints under Article 6 § 1 of the Convention in application no. 24268/21 (see paragraph 98 above).

108. Moreover, in application no. 24268/21, the domestic proceedings were aimed at enforcing the applicant's alleged right to daily outdoor activity (see paragraphs 19-25 above). The costs relating to those proceedings were therefore not incurred in order to prevent or rectify a violation of Article 6 § 1 of the Convention affecting those very proceedings at their final stage before the Federal Supreme Court (compare *Nideröst-Huber*, cited above, § 40; *F.R. v. Switzerland*, cited above, § 50; and *Ziegler*, cited above, § 47).

109. Accordingly, regard being had to the documents in its possession and the above considerations, the Court considers it reasonable to award the sum of EUR 5,000 for the proceedings before it and to reject the remainder of the applicant's claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaint under Article 6 § 1 of the Convention in application no. 24268/21 admissible and application no. 55351/21 and the remainder of application no. 24268/21 inadmissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
5. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

B.K. v. SWITZERLAND JUDGMENT

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

Martina Keller
Deputy Registrar

Kateřina Šimáčková
President