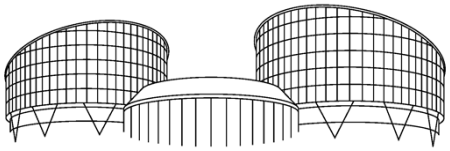

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

# CASE OF M.A. v. LATVIA

*(Application no. 55234/21)*

JUDGMENT

Art 5 § 1 • Persons of unsound mind • Detention of a mentally ill person in ordinary prison facilities despite a court order for her placement in a general psychiatric hospital not in conformity with Art 5 § 1 (e)

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 November 2025

*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 M.A. v. Latvia,**

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

Ivana Jelić*, President*,
Raffaele Sabato,
Frédéric Krenc,
Davor Derenčinović,
Alain Chablais,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 55234/21) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Latvian national, Ms M.A. ("the applicant"), on 10 November 2021;

the decision to give notice to the Latvian Government ("the Government") of the complaints under Article 3, Article 5 § 1 and Article 13 of the Convention and to declare the remainder of the application inadmissible;

the decision not to disclose the applicant's name;

the parties' observations;

Having deliberated in private on 14 October 2025,

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

# INTRODUCTION

1. The application concerns detention of a mentally ill person in an ordinary prison environment despite the fact that a court had ordered medical treatment in a psychiatric hospital.

# THE FACTS

2. The applicant was born in 1967 and at the time of the events in issue was detained in Riga. She was granted legal aid and was represented by Ms J. Averinska, a lawyer practising in Riga.

3. The Government were represented by their Agent, Ms K. Līce.

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

## I. THE APPLICANT'S CONVICTION TO IMPRISONMENT AND SUBSEQUENT APPLICATION OF COMPULSORY MEDICAL MEASURES

5. The applicant has had mental health problems since 2005. In 2016 she was assessed as having a second-degree disability on account of her mental

illness (organic personality disorder, epilepsy with generalised seizure disorder).

6. On 13 March 2018 the Riga Regional Court ("the Regional Court") convicted the applicant of fraud, tax evasion and forgery and sentenced her to four years' imprisonment ("the first set of criminal proceedings"). The judgment entered into force on 22 June 2018 and on 17 September 2018 the applicant started serving her sentence in Iļģuciema Prison. She was to complete the sentence on 14 September 2022.

7. Meanwhile, in the framework of unrelated criminal proceedings against the applicant on suspicion of fraud ("the second set of criminal proceedings"), on 29 October 2020 the Riga City Pārdaugava District Court ("the District Court") ordered a forensic psychiatric examination of the applicant and on 14 April 2021 she was transferred for that purpose to the Riga Psychiatric and Narcology Centre.

8. From 14 April to 12 May 2021 a psychiatric expert carried out the examination and concluded that the applicant's mental condition had significantly deteriorated since 2018 and did not allow her to participate in court proceedings or to serve a sentence in prison. The expert recommended the application of compulsory medical measures (medical treatment in a general psychiatric hospital).

9. On 12 May 2021 the applicant was transferred to the Latvian Prison Hospital in Olaine Prison for further medical treatment.

10. At the request of the applicant's counsel, on 11 June 2021 the doctors' council at the Latvian Prison Hospital in Olaine Prison, after evaluating the applicant's health condition, concluded that there had been no indication that the applicant should be released from further serving her sentence.

11. On 13 July 2021 the District Court ordered the applicant's placement in a general psychiatric hospital for six months pending the proceedings for application of compulsory medical measures in the second set of criminal proceedings. The decision entered into force on 10 August 2021.

12. On 18 August 2021 the Olaine Prison administration received the above-mentioned decision of 13 July 2021.

13. On the same day the Olaine Prison administration applied to the Regional Court for an assessment of whether the applicant could continue to serve the sentence imposed on her in the first set of criminal proceedings. Reference was made to section 640 of the Criminal Procedure Law, section 59(5) of the Criminal Law and Article 116 of the Sentence Enforcement Code.

14. On 23 August 2021 the Regional Court transferred the application to the Riga City Latgale District Court ("the Latgale District Court").

15. While those proceedings were pending, on 24 August 2021 the applicant was discharged from the Prison Hospital in Olaine Prison and transferred back to Iļģuciema Prison.

16. On 27 September 2021 the Latgale District Court ordered an outpatient forensic psychiatric examination of the applicant.

17. Initially scheduled for 12 November 2021, the forensic psychiatric examination could not take place until 17 December 2021 owing to the COVID-19 quarantine in Iļģuciema Prison.

18. Meanwhile, on 5 November 2021 Iļģuciema Prison applied to the District Court requesting it to grant the applicant conditional early release.

19. However, on 7 December 2021 the District Court rejected that application, finding that the conditions for conditional early release laid down in section 61 of the Criminal Law had not been met.

20. On 17 December 2021 a psychiatric expert carried out the outpatient forensic psychiatric examination of the applicant and diagnosed her with organic personality, cognitive and depressive disorders with hallucinatory features against the background of generalised epilepsy. The expert concluded that, in view of the applicant's mental illness, she could not be placed in a prison and could not serve a sentence of deprivation of liberty. The expert recommended the application of compulsory medical measures (medical treatment in a general psychiatric hospital) involving a multidisciplinary team of psychiatrists, neurologists, psychologists, psychotherapists and rehabilitation specialists to monitor the dynamics of the applicant's condition and to adjust her medication accordingly.

21. On 5 January 2022 the District Court, in the framework of the second set of criminal proceedings, took a decision to place the applicant in a general psychiatric hospital for another six months, until 5 July 2022. The decision entered into force on 20 January 2022.

22. On 6 January 2022 the administration of Iļģuciema Prison sent a letter to the Pārdaugava and Latgale district courts, explaining that it had not yet received a ruling that would preclude the applicant from serving the sentence imposed on her in the first set of criminal proceedings and, therefore, it would continue to execute that sentence.

23. On 24 January 2022 the Latgale District Court received the results of the applicant's forensic psychiatric examination of 17 December 2021 and scheduled a hearing for 4 February 2022 to determine the issue of further enforcement of the sentence imposed on the applicant in the first set of criminal proceedings.

24. On 4 February 2022 the Latgale District Court, in the light of the expert's conclusions, decided to release the applicant from the obligation to serve the sentence and applied compulsory medical measures by ordering her placement in a general psychiatric hospital. That decision was transmitted for enforcement to Prison.

25. On the same day the applicant was placed in the Riga Psychiatric and Narcology Centre.

## II. MEDICAL TREATMENT PROVIDED TO THE APPLICANT

### A. Psychiatric unit of the Latvian Prison Hospital: 12 May to 24 August 2021

26. In view of the results of the inpatient forensic psychiatric examination of the applicant, on 12 May 2021 she was transferred from the Riga Psychiatric and Narcology Centre to the psychiatric unit of the Latvian Prison Hospital in Olaine Prison. She was diagnosed with organic personality disorder and epilepsy.

27. According to the Government, the applicant had received extensive treatment for her mental illness: medication had been administered on a daily basis, the applicant's health indicators had been regularly monitored and documented and the treatment had been adapted accordingly. The applicant had been under the supervision of medical personnel 24 hours a day. She had had no epileptic seizures or other sudden worsening of her health condition during her stay.

28. The applicant was placed in a cell with another person, who could, if necessary, assist the applicant and alert the administration of any sudden worsening of her condition.

29. On 24 August 2021 the applicant was discharged from the hospital and transferred back to Iļģuciema Prison. According to the applicant's inpatient medical card at the time of her discharge, her condition had improved. At the same time the attending psychiatrist recommended that the applicant should stay under the supervision of a prison psychiatrist and receive the prescribed medication.

### B. Iļģuciema Prison: 24 August 2021 to 4 February 2022

30. From 24 August 2021 to 4 February 2022 the applicant continued to serve her sentence in Iļģuciema Prison. According to the Government, she had been supervised by a psychiatrist and provided with the appropriate treatment for her mental illness. Throughout that time she had had six appointments with an internist, five appointments with a psychiatrist and one appointment with a gynaecologist.

31. During that period of time the applicant participated in various resocialisation activities in line with her resocialisation plan: she attended individual consultations with a psychologist to reduce emotional tension and receive support and took part in educational and entertainment activities. She also used the library.

32. The applicant was at all times placed in cells or rooms with other persons who could, if necessary, assist the applicant and alert the administration in the event of a sudden worsening of her condition.

33. In view of the applicant's disposition to escape and attack, the prison administration kept her under close surveillance.

34. On 4 February 2022 the applicant was placed in the Riga Psychiatric and Narcology Centre.

### III. REVIEW BY THE OMBUDSMAN

35. On 27 August 2021 the Ombudsman's office received an application from the applicant's counsel in which she outlined the applicant's situation and complained about the prison administration's failure to exempt the applicant from serving her sentence and to apply compulsory psychiatric measures.

36. The Ombudsman obtained information from the prison administration to the effect that on 11 June 2021 the medical commission of the Latvian Prison Hospital in Olaine Prison had found that there had been no grounds for the application of the procedure for the applicant's release from further serving her sentence in the first set of criminal proceedings, that immediately after receiving the decision of 13 July 2021 ordering the applicant's placement in a general psychiatric hospital, adopted in the second set of criminal proceedings, Olaine Prison had instituted the proceedings for the applicant's release with the Latgale District Court, and that it had been impossible to enforce the decision of 13 July 2021 until the relevant decision had been taken by the Latgale District Court on 4 February 2022.

37. In the light of the information above, the Ombudsman concluded that there had been no failure to act on the part of the prison administration. From 12 May to 24 August 2021 the applicant had received medical treatment in the Latvian Prison Hospital in Olaine Prison and from 24 August 2021 to 4 February 2022 in Iļģuciema Prison, where her state of health had been monitored by a psychiatrist. The Ombudsman found no reason to conclude that the health care provided to the applicant in prison had been insufficient or had endangered her health or life. The Ombudsman noted in that respect the absence of any specific complaints as to the alleged inadequacy of the applicant's health care in prison. It was found that the prison had acted in accordance with the requirements of domestic law.

## RELEVANT LEGAL FRAMEWORK

### I. RELEVANT DOMESTIC LAW

#### A. The Criminal Law

38. According to section 59(5) of the Criminal Law, if a person convicted of a criminal offence becomes ill with a mental illness depriving him or her of the ability to understand his or her actions or to control them, a court must

release such person from serving the sentence. Compulsory medical measures may be imposed on him or her.

39. A person who has been sentenced to deprivation of liberty may be conditionally released prior to the completion of his or her sentence if he or she is not presently subject to a disciplinary penalty, or to pending disciplinary proceedings, for a breach of the regulations governing the specific type of prison sentence, and if he or she has actually served, in particular, not less than half of the sentence imposed for a less serious crime, not less than two-thirds of the sentence imposed for a serious crime or not less than three-quarters of the sentence imposed for an especially serious crime (section 61).

### B. The Criminal Procedure Law

40. Under section 640(1) of the Criminal Procedure Law, if a convicted person becomes ill with a mental illness and therefore cannot stay in a prison and requires medical treatment, a judge may, on the basis of the findings of an expert examination, release such person from further serving his or her sentence and determine the relevant treatment.

41. Matters related to the execution of a sentence determined in a judgment and any uncertainties arising in the execution of a court's ruling are to be decided, on the basis of an application lodged by the executing authority or a prosecutor, by a judge of the first-instance court which delivered the judgment or the ruling in question, with the exception provided for in the Criminal Procedure Law (section 650(1)).

42. After 1 January 2014, in cases examined by a regional court as a court of first instance, matters related to the execution of a ruling or compulsory medical measures are to be decided by a district (city) court as a court of first instance (section 52).

### C. The Sentence Enforcement Code

43. Section $78^1$ of the Sentence Enforcement Code states that health care of persons sentenced to imprisonment must be provided by the medical unit of a prison or the Prison Hospital of Latvia. If such persons require health care services which cannot be provided by a prison or the Prison Hospital of Latvia, they are to be transferred to medical treatment institutions outside the prison which provide the relevant services.

44. If while serving a sentence a convicted person becomes ill with a mental illness or other serious incurable disease preventing him or her from further serving his or her sentence, the institution executing the sentence is to ensure that an expert examination is carried out in accordance with the law. On the basis of the conclusion of the medical commission, the institution executing the sentence may propose to a court to release such person from

further serving his or her sentence. An application for the release of the convicted person from further serving the sentence must be submitted to the district (city) court at the place where the relevant institution executing the sentence is located (section 116).

### D. The Administrative Procedure Law

45. The Administrative Procedure Law provides for the right to challenge administrative acts and actions of a public authority before the administrative courts. It defines an action of a public authority as an action within the sphere of public law which does not manifest itself in the form of a legal act, provided that its results have or might have infringed the rights or legal interests of the individual concerned. An action of a public authority also includes an omission on the part of a public authority, provided that such authority has an obligation under the law to take a specific action (section 89).

46. The court may order an interim measure where there is reason to believe that if the impugned administrative act remained in force, it might cause significant harm or damage, the prevention or restitution of which would be very difficult or would require disproportionate resources, and where, upon examination of the information available to the court, the impugned administrative act appears *prima facie* unlawful (section 195(1)).

47. The interim measures may consist either in a court's ruling that would replace the requested administrative act or action by a public authority or in a court decision ordering the relevant institution to perform or refrain from performing a certain action within a set time-limit (section 196).

48. A court must examine the request for an interim measure within a reasonable time period, taking into account the urgency of the situation, not later than within one month from the day of the initiation of the case or the day of receipt of the request (section 197(1)).

### E. The Medical Treatment Law

49. Section 10 of the Medical Treatment law states that quality of the health care provided by medical treatment institutions is controlled by the Health Inspectorate.

### F. The Law on the Rights of Patients

50. According to section 5(1) of the Law on the Rights of Patients each person has the right to receive a suitable medical treatment in accordance with the procedures laid down in the Medical Treatment Law.

51. The Law provides for a right to compensation for any harm (including moral harm) caused to a patient's life or health by the medical practitioners

working in the medical treatment institutions through their acts or failure to act or by the conditions during medical treatment (section 16).

52. It further provides that, for the protection of his or her rights and interests related to medical treatment, a person is entitled to lodge a complaint to the Health Inspectorate. A decision of the Health Inspectorate may be appealed against in a court (section 18).

## G. Regulations of the Cabinet of Ministers

53. Regulation of the Cabinet of Ministers no. 276 (2015) on Procedures for Implementing Health Care of Detained and Convicted Persons, as in force at the material time, provided as follows:

> "2. A prisoner shall receive free of charge:
>
> 2.1. primary health care provided by the medical personnel of a prison, with the exception of planned dental care;
>
> 2.2. emergency dental care;
>
> 2.3. secondary health care provided by the medical personnel of a prison or the Latvian Prison Hospital ... [however] if a prisoner requires health care services which cannot be provided by the above-mentioned [providers], then [those services shall be provided], on the basis of the medical indications, by medical institutions outside the prison;
>
> 2.4. the most effective and least expensive drugs prescribed by a prison's medical staff;
>
> 2.5. health care services, financed from the State budget, in medical institutions outside a prison on the basis of medical indications ...
>
> 3. A prisoner's outpatient health care is provided in the medical unit of a prison, while inpatient health care is provided in the Latvian Prison Hospital.
>
> ...
>
> 20. A prisoner receives outpatient health care services in a prison:
>
> 20.1. when turning to a doctor, a doctor's assistant or a dentist of a prison on his own initiative;
>
> 20.2. upon the referral of a doctor or a doctor's assistant."

54. Regulation of the Cabinet of Ministers no. 309 (2019) on By-laws of the Health Inspectorate reads as follows:

> "1. The Health Inspectorate is an institution directly administered under the Minister of Health.
>
> 2. The purpose of the Health Inspectorate is to implement the functions of the State administration in the field of supervision and control of the health sector in order to ensure compliance with and fulfilment of the requirements of the regulatory acts regulating the relevant fields ...
>
> ...

11. Decisions and actions of the officials of the Health Inspectorate may be appealed against by the submission of a relevant application to the head of the Health Inspectorate. A decision of the head of the Health Inspectorate may be appealed against in a court."

## II. RELEVANT INTERNATIONAL MATERIAL

55. The Recommendation of the Committee of Ministers to member States of the Council of Europe on the European Prison Rules (Rec (2006)2), adopted on 11 January 2006 at the 952nd meeting of the Ministers' Deputies, as revised in 2020, in so far as relevant, reads as follows:

"12.1 Persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison should be detained in an establishment specially designed for the purpose.

12.2 If such persons are nevertheless exceptionally held in prison, there shall be special regulations that take account of their status and needs."

56. The relevant part of the United Nations Standard Minimum Rules for the Treatment of Prisoners ("the Nelson Mandela Rules"), A/RES/70/175, the global key standards for the treatment of prisoners adopted by the United Nations General Assembly on 17 December 2015, reads as follows:

**Rule 109**

"1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible."

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

57. The applicant complained that her detention in ordinary prison facilities from 13 July 2021 to 4 February 2022 (including the prison hospital) despite the domestic courts' orders to place her in a psychiatric hospital and thereby to provide her with specialised psychiatric assistance had amounted to treatment in breach of Article 3 of the Convention. She further complained under Article 13 of the Convention that there had been no effective remedy under domestic law for her complaint under Article 3. The relevant Convention provisions read as follows:

**Article 3**

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

**Article 13**

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

## Admissibility

### *1. The parties' submissions*

#### (a) The Government

58. The Government argued that the applicant had failed to exhaust the domestic remedies available to her prior to submitting her complaint to the Court. In particular, the applicant could have challenged the conditions of her detention or the alleged lack of access to health care services in the ordinary prison facilities by lodging a complaint with the prison administration and, subsequently, with the administrative courts in accordance with the procedure laid down in the Administrative Procedure Law. The Government argued that the remedy in question was not only compensatory, but also preventive in nature, as it might lead to an improvement in the material conditions of detention. Administrative courts could order the application of interim measures or, in addition to declaring a specific action or inaction of an institution unlawful, could impose an obligation to carry out a specific action (see paragraphs 45-48 above). They referred in this respect to *Āboliņš v. Latvia* ((dec.), no. 27979/08, § 25, 9 December 2014) and provided examples of the domestic practice of the administrative courts, including with regard to the examination of requests for interim measures (concerning, specifically, an imprisoned person's right to meet with relatives (granted), an applicant's examination and treatment for hepatitis C free of charge (refused) and an applicant's request to be provided with appropriate nutrition in prison (refused)).

59. The Government further argued that if the applicant had not been satisfied with the quality of the medical care provided to her in the Latvian Prison Hospital in Olaine Prison and/or in Iļģuciema Prison between 13 July 2021 and 4 February 2022, she could have lodged a complaint with the Health Inspectorate. They contended that it had been an effective preventive and compensatory remedy. In this connection, they referred to *Antonovs v. Latvia* ((dec.), no. 19437/05, § 111, 11 February 2014) and *Jegorovs v. Latvia* ((dec.), no. 53281/08, §§ 155-56, 1 July 2014) and argued that the administrative courts had also had the competence to review the Health Inspectorate's decisions and, more generally, complaints pertaining to the quality of medical care in prison.

60. Regarding the applicant's capacity, in view of her mental health condition, to make use of the above remedies, the Government submitted that she had enjoyed effective legal assistance throughout the domestic proceedings, that her counsel J. Averinska (also representing her before the

Court) had submitted a number of applications to various domestic authorities concerning the non-enforcement of the decision of 13 July 2021 ordering the applicant's placement in a psychiatric hospital and therefore nothing had prevented her having recourse to the above-mentioned remedies.

**(b) The applicant**

61. The applicant submitted that, in view of her mental health condition, she was a person with special needs who could not have understood her actions or lodged complaints regarding the adequacy of medical assistance provided to her in the ordinary prison facilities or procured a power of attorney for these purposes. While in prison she had not been afforded special assistance or been appointed a guardian to safeguard her interests and could not, therefore, have initiated by her own means proceedings before the administrative courts. Furthermore, domestic law did not provide for the possibility of a convicted person applying for legal aid in proceedings before the administrative courts and, in any event, the applicant's mental health condition would not have allowed her to do so. The applicant also disputed the effectiveness of submitting a complaint to the administrative courts in view of the alleged length of proceedings.

62. Acting as the applicant's legal-aid lawyer in both sets of criminal proceedings, the representative had informed the prison administration about the applicant's mental health condition as determined by the State's expert psychiatrist in the second set of criminal proceedings and had asked it to take the necessary action to release her from further serving her sentence. It had been the prison administration's right and duty to do so.

*2. The Court's assessment*

63. The Court reiterates that a fundamental feature of the machinery of protection established by the Convention is its subsidiarity to the national systems safeguarding human rights. The Court is concerned with the supervision of the implementation by Contracting States of their obligations under the Convention. It should not take on the role of Contracting States, whose responsibility is to ensure that the fundamental rights and freedoms enshrined therein are respected and protected on a domestic level. The rule of exhaustion of domestic remedies is based on the assumption – reflected in Article 13 of the Convention, with which it has close affinity – that there is an effective remedy available in respect of the alleged violation. The rule is therefore an indispensable part of the functioning of this system of protection (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 220, ECHR 2014 (extracts)).

64. Accordingly, under the terms of Article 35 § 1 of the Convention, the Court may only examine complaints in respect of which domestic remedies have been exhausted and which have been submitted within six months (four

months since 1 February 2022) from the date of the "final" domestic decision (see *Slivenko and Others v. Latvia* (dec.) [GC], no. 48321/99, § 68, ECHR 2002-II (extracts)). The Court reiterates that the purpose of Article 35 of the Convention is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to it (see *Jegorovs*, cited above, § 103).

65. The application of the rule of exhaustion of domestic remedies must, however, make due allowance for the fact that it is being applied in the context of machinery for the protection of human rights that the Contracting Parties have agreed to establish. In reviewing whether it has been observed it is essential to have regard to the particular circumstances of each case. This means, amongst other things, that the Court must take realistic account, in particular, of the personal circumstances of the applicant (see *Estrikh v. Latvia*, no. 73819/01, §§ 92 and 94, 18 January 2007, with further references).

66. The assessment of the situation of detainees with mental disorders has to take into consideration their vulnerability and, in some cases, their inability to complain coherently or at all about how they are being affected by any particular treatment (see *Epure v. Romania*, no. 73731/17, § 54, 11 May 2021, with further references).

67. Turning to the present case, the Court observes that at the moment of lodging of her application with the Court on 10 November 2021 the applicant continued to remain in ordinary prison facilities, namely Iļģuciema Prison, where she alleged that she had been subjected to treatment incompatible with Article 3 of the Convention on account of the failure of the domestic authorities to transfer her to the general psychiatric hospital and thereby to provide her with specialised psychiatric assistance. In such circumstances, the appropriate domestic remedy is one which is capable of bringing the applicant direct and timely relief, that is, putting an end to the allegedly ongoing lack of provision of specialised psychiatric assistance.

68. The Court notes that in cases concerning conditions of detention in Latvian prisons, including the adequacy of medical care, it has consistently held the view that an applicant must exhaust domestic remedies by pursuing complaints before the administrative courts (see *D v. Latvia,* no. 76680/17, § 33, 11 January 2024; *Kočegarovs and Others v. Latvia* (dec.), nos. 14516/10 and 2 others, § 110, 18 November 2014; *Jegorovs*, cited above, §§ 110-11; and *Antonovs*, cited above, § 111). Having regard to the applicant's complaints (see paragraphs 57 and 67 above), she should have made use of that remedy. Nonetheless, the documents submitted by the applicant do not indicate that she lodged a complaint with the administrative courts or that she even attempted to bring the issues complained of to the attention of the prison administration or the Health Inspectorate.

69. The Court is not persuaded by the applicant's argument to the effect that her mental condition and alleged inability to obtain legal aid prevented

her from bringing a complaint before the administrative court. It notes in this connection that during the period under consideration a number of other complaints were lodged on her behalf with various domestic authorities by her counsel (see paragraphs 10 and 35 above) in addition to the present application before the Court. These circumstances do not allow the Court to conclude that the practical realities of the applicant's position amounted to special circumstances dispensing her from the obligation to avail herself of the remedy provided for in domestic law.

70. In so far as the applicant alleged that administrative proceedings would not have been an effective remedy in view of their alleged length, the Court notes that domestic law provided for a possibility of supplementing an application to the administrative court with a request for an interim measure capable of providing a quick temporary solution as required by the urgency of the situation complained of (see paragraphs 46-48 above).

71. In such circumstances, the Court does not see any reason in the present case to depart from its well-established approach and concludes that the remedy available to the applicant satisfied the criteria laid down in paragraph 67 above. It finds, therefore, that the applicant failed to exhaust domestic remedies with regard to her complaint of the lack of access to specialised psychiatric assistance in the ordinary prison facilities. It follows that her complaint under Article 3 of the Convention must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

72. As to the complaint raised by the applicant under Article 13 of the Convention, the Court notes that, having regard to the finding in respect of Article 3 of the Convention, her complaint under Article 13 of the Convention is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

73. The applicant complained that her detention in the ordinary prison facilities between 13 July 2021 and 4 February 2022 had been unlawful in that she had not received the court-ordered compulsory psychiatric treatment in a psychiatric hospital. She relied on Article 5 § 1 of the Convention, the relevant parts of which provide:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> (a) the lawful conviction of a person after conviction by a competent court;
>
> ...
>
> (e) the lawful detention of persons ... of unsound mind ...;
>
> ..."

## A. Admissibility

74. The Court notes that the applicant's complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

## B. Merits

### *1. The parties' submissions*

75. The applicant maintained her complaint, submitting that the decision of 13 July 2021 ordering her placement in the psychiatric hospital had not been enforced until the determination of the issue of her release from further serving her sentence on 4 February 2022.

76. The Government submitted that the applicant's detention in the Latvian Prison Hospital in Olaine Prison and Iļģuciema Prison between 13 July 2021 and 4 February 2022 fell within the scope of Article 5 § 1 (a) of the Convention – lawful detention after her conviction by the Regional Court on 13 March 2018 in the framework of the first set of criminal proceedings, in which the applicant had been sentenced to four years' imprisonment – and not under Article 5 § 1 (e). The Government argued that at that time there had been a strong causal connection between the conviction and the deprivation of liberty at issue and that the decision of the District Court of 13 July 2021 ordering the applicant's placement in a psychiatric hospital, taken within the second set of criminal proceedings, had not been capable of breaking it. The decision of 13 July 2021 could not have been and had not been enforced until the Latgale District Court had delivered a decision to release the applicant from further serving her sentence imposed in the first set of criminal proceedings on 4 February 2022 and, in the Government's view, could not have constituted a basis for the applicant's detention during the period under consideration.

77. The Government further argued that as soon as the domestic authorities had learned of the existence of the grounds for the applicant's potential release from the obligation to serve her sentence imposed in the first set of criminal proceedings, they had acted in good faith to adopt and enforce a decision on the matter in a timely manner. In the meantime, the prison officials had ensured that the applicant received proper medical treatment for her mental health condition.

### *2. The Court's assessment*

#### (a) General principles

78. The Court reiterates that Article 5 § 1 of the Convention contains an exhaustive list of permissible grounds for deprivation of liberty. However, the applicability of one ground does not necessarily preclude that of another;

a detention may, depending on the circumstances, be justified under more than one sub-paragraph (see *Pankiewicz v. Poland*, no. 34151/04, § 38, 12 February 2008, and *Brand v. the Netherlands*, no. 49902/99, § 58, 11 May 2004).

79. In order to comply with Article 5 § 1, the detention in issue must first of all be "lawful", including the observance of a procedure prescribed by law. In addition to being in conformity with domestic law, that provision requires that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness. For arbitrariness to be excluded, conformity with the purpose of the restrictions permitted by the relevant sub-paragraph of Article 5 § 1 is required in respect of both the ordering and the execution of the measures involving deprivation of liberty. In addition, there must be some relationship between the ground relied on for the permitted deprivation of liberty and the place and conditions of detention (see *Rooman v. Belgium* [GC], no. 18052/11, § 190, 31 January 2019, with further references).

80. The word "conviction" for the purposes of Article 5 § 1 (a) has to be understood as signifying both a finding of guilt after it has been established in accordance with the law that there has been an offence, and the imposition of a penalty or other measure involving the deprivation of liberty (see *W.A. v. Switzerland*, no. 38958/16, § 32, 2 November 2021).

81. As regards the deprivation of liberty of persons suffering from mental disorders, an individual may not be deprived of his or her liberty under Article 5 § 1 (e) as being of "unsound mind" unless the following three minimum conditions are satisfied: firstly, he or she must reliably be shown to be of unsound mind; secondly, the mental disorder must be of a kind or degree warranting compulsory confinement; thirdly, the validity of continued confinement depends upon the persistence of such a disorder (see *Rooman*, cited above, § 192, with further references). The relevant time at which a person must be reliably established to be of unsound mind, for the requirements of Article 5 § 1 (e), is the date of the adoption of the measure depriving that person of his or her liberty as a result of that condition (see *O.H. v. Germany*, no. 4646/08, § 78, 24 November 2011).

82. Any detention of mentally ill persons must have, along with a social function of protection, a therapeutic purpose aimed specifically, and in so far as possible, at curing or alleviating their mental-health condition. Irrespective of the facility in which those persons are placed, they are entitled to be provided with a suitable medical environment accompanied by real therapeutic measures, with a view to preparing them for their eventual release (see *Rooman*, cited above, §§ 208 and 210).

83. The level of care required for this category of detainees must go beyond basic care. Mere access to health professionals, consultations and the provision of medication cannot suffice for a treatment to be considered appropriate and thus satisfactory under Article 5. However, the Court's role

is not to analyse the content of the treatment that is offered and administered. What is important is that the Court is able to verify whether an individualised programme has been put in place, taking account of the specific details of the detainee's mental health with a view to preparing him or her for possible future reintegration into society. In this area, the Court affords the authorities a certain latitude with regard both to the form and the content of the therapeutic care or of the medical programme in question (ibid., § 209).

84. The assessment of whether a specific facility is "appropriate" must include an examination of the specific conditions of detention prevailing in it, and particularly of the treatment provided to individuals suffering from psychological disorders (ibid., § 210).

85. The mere fact that an individual is not placed in an appropriate facility does not automatically render his or her detention unlawful under Article 5 § 1 of the Convention. A certain delay in admission to a clinic or hospital is acceptable if it is related to a disparity between the available and required capacity of mental institutions. However, a significant delay in admission to such institutions and thus in treatment of the person concerned will obviously affect the prospects of the treatment's success, and may entail a breach of Article 5 (ibid., § 198, with further references).

**(b) Application of these principles to the present case**

86. Turning to the circumstances of the present case, the Court notes that there were two separate sets of criminal proceedings against the applicant. In the framework of the first set of proceedings, the applicant's deprivation of liberty in the period between 13 July 2021 and 4 February 2022 was based on the judgment of the Regional Court of 13 March 2018 sentencing her to four years' imprisonment. In the framework of the second set of proceedings, the applicant's deprivation of liberty in the period in question was based on the decisions of the District Court of 13 July 2021 and, subsequently, of 5 January 2022 ordering her confinement in a psychiatric hospital pending the determination of the issue of application of compulsory medical measures (see paragraphs 6, 11 and 21 above). Accordingly, the applicant's detention between 13 July 2021 and 4 February 2022 falls within the scope of sub-paragraphs (a) and (e) of Article 5 § 1 of the Convention (compare *Brand*, cited above, § 59, and *Erkalo v. the Netherlands*, 2 September 1998, § 51, *Reports of Judgments and Decisions* 1998-VI).

87. Against this background, it must be established whether the detention of the applicant during the period under consideration was lawful under domestic law and whether it complied with the purpose of Article 5 § 1 of the Convention (see paragraph 79 above).

88. Reiterating that it is in the first place for the national authorities, notably the courts, to interpret and apply domestic law, the Court accepts, in the light of the Regional Court's judgment of 13 March 2018 and the District Court's decisions of 13 July 2021 and 5 January 2022, that the applicant's

detention during the period under consideration was lawful under domestic law.

89. As regards the conformity of the applicant's detention between 13 July 2021 and 4 February 2022 with the purpose of Article 5 § 1 of the Convention, the Court notes that while the purpose of the applicant's initial detention under Article 5 § 1 (a) was punitive in nature, the purpose of her detention under Article 5 § 1 (e) was therapeutic, that is, aimed at curing or alleviating the applicant's mental-health condition (see paragraph 82 above). Therefore, as from 13 July 2021, when the District Court found the applicant to be a person "of unsound mind" and ordered her treatment in a general psychiatric hospital, albeit in separate unrelated criminal proceedings, the purpose of her ensuing detention became incompatible with the aims of her conviction in the first set of proceedings. The Court cannot therefore agree with the Government's argument to the effect that from 13 July 2021 onwards the applicant's deprivation of liberty retained a strong causal connection with her conviction and was justified under Article 5 § 1 (a) of the Convention (compare, *mutatis mutandis*, *W.A. v. Switzerland*, cited above, §§ 43-45).

90. The Court reiterates that the decision of the District Court of 13 July 2021 ordered the applicant's placement in a general psychiatric hospital for six months. This decision entered into force on 10 August 2021 and was communicated to the Olaine Prison administration on 18 August 2021. However, the applicant continued to serve her sentence for almost another six months – until 4 February 2022 – in ordinary prison facilities. In particular, as from 24 August 2021 she was held in Iļģuciema Prison (see paragraphs 30-34 above), in which, as it appears from the documents submitted by the Government, the medical treatment for her mental health did not go beyond basic care and no individualised treatment programme was put in place with a view to cure or alleviate her condition, falling short of the Convention standards (see paragraph 83 above).

91. The Court is mindful of the fact that, when on 13 July 2021 the District Court took the decision to place the applicant in the psychiatric hospital, she had been serving the prison sentence imposed on her in the previous criminal proceedings and that recourse to a special procedure under domestic law was required to secure her release from further serving her sentence and subsequent transfer to the psychiatric hospital (see paragraphs 38 and 40 above). The Court further notes that the domestic authorities appear to have acted diligently in order to comply with the above procedure, and that they secured the applicant's transfer to the psychiatric hospital immediately after the Latgale District Court took a decision to release her from the obligation to serve the sentence. It observes, however, the lack of co-ordination between the domestic courts in two parallel sets of criminal proceedings against the applicant. In particular, regardless of the fact that the applicant's mental condition had already been recently assessed during her inpatient forensic psychiatric examination carried out between 14 April and 12 May 2021 (see

paragraphs 7 and 8 above), on which the Pārdaugava District Court had based its decision of 13 July 2021 ordering the applicant's placement in a general psychiatric hospital for six months, the Latgale District Court on 27 September 2021 ordered another forensic psychiatric examination in the framework of the proceedings for the applicant's release from further serving her sentence imposed in the first set of criminal proceedings (see paragraphs 16 and 17 above). No reasons explaining the necessity for another forensic psychiatric examination were given. This lack of co-ordination between the District Courts caused – together with other factors such as restrictions owing to COVID-19 pandemic – significant delay in the applicant's admission to the specialised psychiatric facility and treatment required by her mental condition in a timely manner.

92. In the light of the foregoing, the Court considers that the applicant's detention in ordinary prison facilities following the decision taken in the second set of criminal proceedings on the applicant's placement in a general psychiatric hospital did not correspond to the purpose of Article 5 § 1 (e).

93. There has accordingly been a violation of Article 5 § 1 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

94. 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

95. The applicant invited the Court to award her compensation in respect of non-pecuniary damage in accordance with its case-law.

96. The Government argued that the applicant's claim should be rejected, as she had failed to specify its amount and to show a causal link between the compensation sought and the alleged violation of her rights under the Convention.

97. Having regard to the nature of the established violation of Convention rights, and making its assessment on an equitable basis, the Court finds it appropriate to award the applicant 9,000 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

### B. Costs and expenses

98. The applicant did not claim any amount for costs and expenses, other than those received in legal aid. Accordingly, there is no call to make an award under this head.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares*, the complaint under Article 5 § 1 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds*, that there has been a violation of Article 5 § 1 of the Convention;

3. *Holds*,
   (a) That the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 9,000 (nine thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (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.

Done in English, and notified in writing on 6 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Ilse Freiwirth<br>Registrar | Ivana Jelić<br>President |