

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

FOURTH SECTION

CASE OF BAYBASIN v. THE NETHERLANDS (No. 2)

(Application no. 36384/22)

JUDGMENT

Art 3 (substantive) • Degrading treatment • Random strip search carried out after the applicant, serving a life sentence, was visited by his lawyer • Case distinguished from *Adamčo v. Slovakia (no. 2)* • Search governed by detailed rules and instructions setting out the relevant procedure, including as regards the keeping of records • Applicant able to challenge search decision in adversarial proceedings • Authorities provided relevant and sufficient reasons for dismissing his complaint and subsequent appeal • Impugned measure part of security regime whose design prevented him from being randomly selected for a search more than twice a month on average • Impugned search did not go beyond the inevitable element of suffering or humiliation connected with a given form of legitimate treatment
Art 8 • Private life • Search was necessary and proportionate in case circumstances

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 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 Baybasın v. the Netherlands (No. 2),

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

Lado Chanturia*, President*,
Faris Vehabović,
Ana Maria Guerra Martins,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab,
Corinna Wissels*, judges*,
and Hasan Bakırcı, *Section Registrar,*

Having regard to:

the application (no. 36384/22) against the Kingdom of the Netherlands lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Turkish national, Mr Hüseyın Baybasın ("the applicant"), on 21 July 2022;

the decision to give notice to the Government of the Kingdom of the Netherlands ("the Government") of the complaints concerning Articles 3 and 8 of the Convention;

the parties' observations;

the fact that the Turkish Government did not express a wish to intervene in the present case (Article 36 § 1 of the Convention and Rule 44 § 1 (a) of the Rules of Court);

Having deliberated in private on 15 September 2026,

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

INTRODUCTION

1. The application concerns a strip search that was randomly carried out after the applicant, who is serving a sentence of life imprisonment, had been visited by his lawyer.

THE FACTS

2. The applicant was born in 1956 and is detained in Lelystad. The applicant was represented by Ms J. Serrarens, a lawyer practising in Beek.

3. The Government were represented by their Agent, Ms B. Koopman, of the Ministry of Foreign Affairs.

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

5. The applicant is currently serving a life sentence in the Netherlands. At the relevant time, he was incarcerated at De Schie Prison in Rotterdam (hereinafter "De Schie").

6. On 10 February 2021 the applicant was visited by his lawyer. The visit took place in a meeting room, without supervision. After the visit he was

required to press a "randomiser" button (see paragraph 20 below). After he had pressed the button the light turned red, so the applicant was subjected to a strip search (*visitatie*).

7. On 16 February 2021 the applicant lodged a complaint with the Complaints Commission (*beklagcommissie*) of De Schie's Supervisory Board (*Commissie van Toezicht*). He stated that his strip search after receiving a "privileged visit" (*geprivilegieerd bezoek* – see paragraph 27 below) from a lawyer had been in breach of Articles 3 and 8 of the Convention. In his view, there had been no reason to conduct a strip search because he had never been found in possession of prohibited items during his nearly 25 years of incarceration, and his lawyers' conduct had always been beyond reproach.

8. On 16 March 2021 the chairperson of the Complaints Commission declared the complaint manifestly ill-founded. The chairperson understood that the applicant had found the strip search uncomfortable and degrading – especially given the fact that he had never been caught with prohibited items. Nevertheless, the chairperson found that, given the need to exercise prison vigilance (*penitentiaire scherpte*), it was not unreasonable or unfair to require prisoners to press the randomiser button after meeting with an external visitor – even a privileged visitor.

9. On 24 March 2021 the applicant lodged an appeal against that decision. He reiterated the views expressed in his complaint of 16 February 2021 (see paragraph 7 above) and submitted that the need for "prison vigilance" had not justified such an intrusive infringement of his physical integrity. On the date of the strip search there had been no specific reason to suspect that his lawyer might have given him prohibited items during the visit. The applicant also asserted that in his experience the randomiser turned red considerably more than half of the times that it was used. He noted, furthermore, that at De Schie there was no precedent for lawyers smuggling in prohibited items and that the prison governor had not mentioned any such incidents during the proceedings before the Complaints Commission.

10. On 5 November 2021 the deputy governor of De Schie responded to the applicant's appeal. Referring to case-law of the Council for the Administration of Criminal Justice and Juvenile Protection (*Raad voor Strafrechtstoepassing en Jeugdbescherming* – "RSJ"; see paragraphs 25-26 below), the deputy governor submitted that strip searches after visits by "privileged persons" were permitted and that it was lawful to conduct them on the basis of a randomiser. It was further emphasised that the randomiser was an unpredictable device that could not be influenced. The fact that the applicant had not been caught with prohibited items on any occasion previously did not mean that there had been a reduced risk on the instant occasion, but rather that the system was effective.

11. On 8 December 2021 the applicant submitted in reply that the randomiser could, in fact, be set manually and that the prison staff had

occasionally set it to turn green repeatedly if there was no time to conduct strip searches. He submitted that he had heard from the prison staff that the device could also be set manually to turn red.

12. On 25 January 2022 the appellate judge of the RSJ Appeals Board held that the grounds of appeal could not lead to a different decision than that made by the Complaints Commission, and accordingly declared the appeal ill-founded. No possibility of lodging a further appeal lay against that judgment.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. SEARCH OF THE PERSON

13. Section 29 of the Prisons Act (*Penitentiaire beginselenwet*) provides:

> "1. [A] governor is authorised to search a prisoner's person or clothing upon their arrival or upon [their] departure from the institution [in question], before or after they have received a visit, or at any time that such a search is necessary in the interests of maintaining order or security in the institution.
>
> 2. ...
>
> 3. [A] search of a prisoner's person includes the external visual observation [*uitwendig schouwen*] of the prisoner's bodily orifices ...
>
> 4. [A] search of a prisoner's person is [to be] undertaken in a private room and, in so far as possible, by persons of the same sex as the prisoner."

14. The Explanatory Memorandum to the Prisons Act states that searches in the interests of maintaining order or security in the institution may be conducted "at random" (*steekproefsgewijs*) or on the basis of "specific suspicions" (*bijzondere verdenkingen*) (Parliamentary Documents, Lower House of Parliament (*Kamerstukken II*) 1994/95, 24 263, no. 3, p. 51).

15. Section 29 of the Prisons Act makes no distinction between different categories of visitors; frisk searches and strip searches of prisoners before or after visits are permitted – irrespective of the person making the visit. This also applies when a prisoner receives visits from a "privileged person", such as his or her lawyer (see paragraph 27 below).

16. The specific details of searches are set out by the governor of each custodial institution (section 5(1) of the Prisons Act).

17. Part 6.4 of the document entitled "House rules of the De Schie custodial institution in Rotterdam" (*Huisregels PI Rotterdam*) provides:

> "[B]efore or after a visit, you may be obliged to submit to a search of your clothing and/or person by two staff members ... A search of your person includes the external visual observation of your bodily orifices ... If you are obliged to submit to [such] a search, [it] will take place in a private room [and it will], whenever possible, be conducted by persons of the same sex as you."

18. The document entitled "General instructions for visits" (*Bezoekinstructie Algemeen*), which applies in respect of De Schie includes, the following:

> "Frisk searches and strip searches:
>
> [A] prisoner will be selected at random for a frisk search or strip search. The prisoner must press the black button ... Strip searches and frisk searches must always be carried out by two members of staff ... [O]ne person carries out the search and the other person supervises the search. Strip searches and frisk searches should preferably be carried out by a person of the same sex as the prisoner ...
>
> Frisk searches after social/official (*ambtelijk*) visits:
>
> Procedure: [The staff] ... ensure that a frisk search of the prisoner is conducted in the prescribed manner after visits. Frisk searches are conducted in a designated space located between the post-visit waiting area and the post-search waiting area ...
>
> Random selection – GREEN: frisk search or RED: strip search.
>
> After a visit the prisoner must press a button, which turns red or green at random.
>
> - Prisoners returning from a social visit or [unsupervised visit]
>
> - Prisoners returning from an official visit
>
> Prisoners may be obliged to submit to a strip search before/after a social and/or official visit [lawyer's visit] only if there are reasons/serious suspicions concerning prohibited items and/or a strip search is ordered. A record must be made of all strip searches ... Following a frisk search or strip search, the prisoner returns to the wing. The prisoner exits the search room and returns to his wing ...
>
> Other types of visits
>
> Official visit
>
> Description: These work instructions ... concern the management of prisoners when they receive ... an official visit ... Official visits are held in a meeting room that is not directly supervised by a prison officer or security officer of the institution. After the visits manager has phoned the prisoner's wing, the prisoner is sent to the visiting area ...
>
> Instructions: The visits manager informs the prison officer on the wing that an official visitor [lawyer] has come to talk to a prisoner. The officer informs the prisoner concerned that an official visitor has arrived and gives him the opportunity to take any documents that he needs to the visit ... ... The officer on the wing directs the prisoner to proceed to the visiting area. The prisoner must make his way from point A to point B within an 'acceptable time'. If this takes too long, a sanction can be imposed. When the prisoner arrives, the visits manager confirms the prisoner's identity, [and the] arrival time is noted in the ... logbook. When the visit is finished, the prisoner is required to press the random selection button. After a frisk search or strip search has been carried out, the prisoner returns to the wing, following the same instructions but ... in reverse order."

19. The document entitled "Work instructions for frisk searches and strip searches (following visits)" (*Werkinstructie fouillering en visitatie (na bezoek)*), which applies in respect of De Schie, includes the following:

> "Every prisoner must be frisked after a visit. In addition, some prisoners will be selected for a strip search by means of a random selection system. These work instructions describe the tasks involved in frisking and/or strip searching prisoners after a visit ... Strip searches and frisk searches must always be carried out by at least two people ...
>
> Prisoners may be obliged to submit to a strip search before/after a social and/or official visit only if there are reasons/serious suspicions concerning prohibited items and/or a strip search is ordered. A record must be made of all strip searches ..."

20. A number of custodial institutions in the Netherlands, including De Schie, use a "randomiser" for the purpose of selecting prisoners for a strip search. When the button of the randomiser is pressed, either the red or the green light is activated at random. If the light turns green, the prisoner is frisked. If the light turns red, the prisoner is subjected to a strip search. A security seal is affixed to the randomiser to prevent unauthorised persons from tampering with it unobserved. Only the team leader is authorised to change the settings.

II. LEGAL PROTECTION

21. A prisoner may lodge a complaint with the Complaints Commission against a decision concerning him or her that is taken by or on behalf of the governor (section 60(1) of the Prisons Act).

22. The Complaints Commission must give the complainant and the governor the opportunity to make oral statements about the complaint – unless it decides immediately that the complaint is manifestly inadmissible, manifestly ill-founded or manifestly well-founded (section 64(1) of the Prisons Act). The Complaints Commission must give its decision as soon as possible, but in any event within four weeks (section 67(1) of the Prisons Act).

23. Appeals against the decision of the Complaints Commission are considered by an RSJ-appointed Appeals Board comprised of three members (section 69(2) of the Prisons Act). The chairperson may decide the appeal unilaterally if he or she considers it manifestly inadmissible, manifestly ill-founded or manifestly well-founded (section 69(3) of the Prisons Act). The Appeals Board must render its decision as soon as possible (section 71(1) of the Prisons Act).

24. In proceedings before the Complaints Commission and the RSJ-appointed Appeals Board, prisoners and his or her lawyer have a right to be present in the courtroom to make submissions.

III. CASE-LAW

25. According to settled case-law of the Appeals Board of the Council for the Administration of Criminal Justice and Juvenile Protection, the random selection of prisoners for strip searches after visits is permissible within the

framework of section 29 of the Prisons Act and Article 3 of the Convention, as long as such searches do not take place more than twice a month on average (see RSJ judgment of 1 March 2004, nos. 03/0988/GA, 03/1326/GA, 02/1327/GA and 03/1328/GA; see also RSJ judgment of 17 February 2014, no. RSJ 13/4049/GA, and RSJ judgment of 31 October 2016, no. 16/1523/GA, both concerning selection for a strip search by way of a randomiser).

26. The Appeals Board has found it equally permissible for detainees to be randomly selected for a strip search after a visit from their lawyer (see RSJ judgment of 10 May 2019, no. R-18/1337/GA, and RSJ judgment of 3 August 2021, no. R-20/5988/GA).

IV. EXERCISE OF THE LEGAL PROFESSION

27. A "privileged visit" is a visit from a person or representative of an organisation who has a privileged position in respect of contact with prisoners (section 38(7) in conjunction with section 37 of the Prisons Act). Privileged visits are, in principle, unsupervised and, in some cases, can take place at any time (section 38(7) of the Prisons Act).

28. Section 46 of the Legal Profession Act (*Advocatenwet*) provides:

> "Advocates shall be subject to disciplinary proceedings regarding any act or omission that is in breach of the due care they ought to exercise as advocates *vis-à-vis* those whose interests they look after or ought to look after ..., any breach of the regulations of the National Bar, [or] any act or omission not befitting a respectable advocate [*enig handelen of nalaten dat een behoorlijk advocaat niet betaamt*]. This disciplinary justice shall be dispensed at first instance by the disciplinary councils, and, on appeal, by the Disciplinary Appeals Tribunal, which shall also [constitute] the highest instance."

29. On 24 November 2006 the Council of Bars and Law Societies of Europe (CCBE) adopted the Charter of Core Principles of the European Legal Profession. It contains a list of ten core principles common to the national and international rules regulating the legal profession, among which the following principles are enumerated:

> "... (d) the dignity and honour of the legal profession, and the integrity and good repute of the individual lawyer; ...
>
> (g) the lawyer's professional competence;
>
> (h) respect towards professional colleagues;
>
> (i) respect for the rule of law and the fair administration of justice; and
>
> (j) the self-regulation of the legal profession."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

30. The applicant complained about the strip search he had been obliged to undergo after receiving a visit from his lawyer. He relied on Article 3 of the Convention, which reads as follows:

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

A. Admissibility

31. The Court notes that the 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

(a) The applicant's submissions

32. The applicant submitted that the strip search carried out on 10 February 2021 had not had any established firm connection with the need to preserve prison security or to prevent crime. His random selection for a strip search had not taken into account the fact that in the more than 20 years of his detention he had never been found in possession of contraband, nor that the lawyer who had visited him on 10 February 2021 had a spotless reputation. Moreover, given that the strip search had been carried out at random, there had been no possibility to dispense with that search in his individual case.

33. The applicant submitted that staff members – or in any event the team leader (who, according to the applicant, could be any prison guard designated for that purpose at any given moment) – at De Schie were able to manually adjust the frequency at which the randomiser turned green or red. In substantiation of this submission, the applicant referred to the reply that he had given to the deputy governor of De Schie during the proceedings before the RSJ (see paragraph 11 above). Accordingly, the applicant submitted that the selection of prisoners by the randomiser might not be automatically neutral or based on chance.

34. The applicant further submitted that he received many more visits than other detainees (on average two a week and occasionally two a day), with the result that he had often undergone a strip search and always had to fear that he would be subjected to strip searches after visits from his lawyer.

35. The applicant maintained that he had not had to undergo strip searches after receiving visits from his lawyers at other prisons – only in De Schie. The application of the most intrusive procedures in terms of physical integrity varied from one place of detention to another, and this contributed to his feeling that he had been subjected to an unnecessary and arbitrary search in the instance case.

36. Lastly, the applicant asserted that it was impossible for him to verify or challenge the Government's claim in respect of the number of reported incidents of contraband being smuggled into De Schie (see paragraph 38 below). In any case, that number was irrelevant, as it did not make any distinction between incidents connected with visits from a lawyer and those connected with visits from non-privileged persons.

(b) The Government's submissions

37. The Government submitted that the applicant's strip search had been compatible with Article 3 of the Convention, taking into account the cumulative effects of the conditions of the applicant's detention, the need to perform random searches in order to preserve prison security, and the fact that the applicant had not complained of the manner in which the strip search of 10 February 2021 had been carried out.

38. The Government pointed out that the introduction of prohibited items into custodial institutions could not be completely prevented – despite various measures taken by the Correctional Institutions Agency (*Dienst Justitiële Inrichtingen*), ranging from placing scanners at the entrances to institutions to inspections conducted by staff. According to the Government, there had been 129 reported incidents of contraband being smuggled into De Schie in 2021.

39. The Government considered a frequency of no more than two strip searches a month on average to be acceptable. Accordingly, the applicant's situation could not be characterised as one involving "routine" strip searching, which had been found to be in violation of Article 3 of the Convention in *Van der Ven v. the Netherlands* (no. 50901/99, ECHR 2003-II) and in one of the applicant's previous applications to the Court (*Baybaşın v. the Netherlands*, no. 13600/02, 6 July 2006).

40. The Government submitted further that it was not inconceivable that during a privileged visit in the privacy of an unsupervised meeting room, a prisoner could receive or pass on objects or documents that could jeopardise order and security in the custodial institution in question. The Government also submitted that there was a risk of prohibited items being exchanged or handed over when prisoners (such as the applicant) walked unescorted between the wing in which they resided and the visiting area. The Government also maintained that randomly executed strip searches had a deterrent effect.

41. The Government maintained that the randomiser was also used in other custodial institution where the applicant had stayed before he had been moved to De Schie.

42. The Government contested the applicant's assertion that it was impossible to dispense with a strip search in individual cases. In this connection the Government submitted that detainees could always request the governor of the custodial institution in question for an exemption from strip searches.

43. Lastly, the Government submitted that the randomiser at De Schie was set to turn red one in ten times and green nine in ten times. That ensured that prisoners were not strip searched more frequently than twice a month on average. The Government submitted that the applicant did not offer any substantiation for his assertion that the randomiser could be manually adjusted by prison staff (or by team leaders, who – according to the Government – were operational managers with more extensive duties and responsibilities than regular guards). The randomiser's selection of prisoners was neutral and purely random, which ensured that all prisoners were treated equally. This was especially important with a view to preventing prisoners from being pressured by other prisoners to smuggle in prohibited items, which could happen if certain individuals were infrequently or never searched.

2. The Court's assessment

(a) General principles

44. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of a democratic society. It prohibits in absolute terms torture and inhuman or degrading treatment or punishment, irrespective of the victim's conduct (see, among other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). In respect of a person who is deprived of his or her liberty, or, more generally, is confronted with law enforcement officers, any recourse to physical force which has not been made strictly necessary by his or her own conduct diminishes human dignity and is an infringement of the right set forth in Article 3 (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 100-01, ECHR 2015, and *Saribekyan and Balyan v. Azerbaijan*, no. 35746/11, § 81, 30 January 2020)

45. The general principles in relation to strip searches have been formulated in *Roth v. Germany* (nos. 6780/18 and 30776/18, §§ 64-69, 22 October 2020, references omitted; see also *Adamčo v. Slovakia (no. 2)*, no. 55792/20, § 81, 12 December 2024) as follows:

> "64. Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 of the Convention. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and health of the victim. In considering whether a treatment is 'degrading' within the meaning of

Article 3, the Court will have regard to whether its object is to humiliate and debase the person concerned and whether, as far as the consequences are concerned, it adversely affected his or her personality in a manner incompatible with Article 3. However, the absence of such a purpose does not conclusively rule out a finding of a violation ... Furthermore, the suffering and humiliation must in any event go beyond the inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment ...

65. The Court has found that strip searches may be necessary on occasion to ensure prison security or to prevent disorder or crime ... They should be carried out in an appropriate manner with due respect for human dignity and for a legitimate purpose ...

66. The Court further reiterates that, in respect of a person who is deprived of his liberty, or, more generally, is confronted with law-enforcement officers, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is, in principle, an infringement of the right set forth in Article 3 ...

67. The Court emphasises that the words 'in principle' cannot be taken to mean that there might be situations in which such a finding of a violation is not called for because the above-mentioned severity threshold ... has not been attained ... Any interference with human dignity strikes at the very essence of the Convention. For that reason any conduct by law-enforcement officers vis-à-vis an individual which diminishes human dignity constitutes a violation of Article 3 of the Convention ...

68. Where the manner in which a search is carried out has debasing elements which significantly aggravate the inevitable humiliation entailed in the procedure, Article 3 has been engaged: for example, where a prisoner was obliged to strip in the presence of a female officer, and his sexual organs and food were touched with bare hands ..., and where a search was conducted before four guards who derided and verbally abused the prisoner ...

69. Similarly, where the search has no established connection with the preservation of prison security and prevention of crime or disorder, issues may arise ..., for example ... where the strip-searching was systematic and long term without convincing security needs ..."

46. The Court further reiterates that lawyers have a special status under the Convention because of their central position in the administration of justice and in maintaining public confidence therein (see, for example, *Rodriguez Ravelo v. Spain*, no. 48074/10, § 40, 12 January 2016). A corollary of the increased level of protection for lawyers under the Convention is that they have a number of specific duties – particularly with regard to their professional conduct (see, for example, *Morice v. France* [GC], no. 29369/10, §§ 133-34, ECHR 2015, referring also to the CCBE Charter of Core Principles of the European Legal Profession quoted in paragraph 29 above). Lawyers' professional conduct is expected to be of a high standard, discreet, honest and dignified (see, for example, *Steur v. the Netherlands*, no. 39657/98, § 38, ECHR 2003-XI). Their compliance with ethical and legal standards is monitored and supervised by bar councils, which exercise public authority and disciplinary powers conferred by law (see, for example, *Casado Coca v. Spain*, 24 February 1994, §§ 52-54, Series A no. 285-A).

(b) Application of those principles to the present case

47. The Court notes at the outset that the application does not concern the "old" regime of weekly routine strip searches which used to be applicable in the Netherlands and was found to be in violation of Article 3 (see *Van der Ven*, §§ 52-63, and *Baybaşin*, §§ 57-62, both cited above, both concerning the extra-security facility at Vught Prison). Furthermore, in 2005, the Court rejected as manifestly ill-founded complaints about a "new" strip search regime, which comprised an average of two random strip searches per month, as well as occasional searches based on specific reasons (see *Baybaşin v. the Netherlands* (dec.), no. 13600/02, 6 October 2005, and *Sylla v. the Netherlands* (dec.), no. 14683/03, 6 October 2005). In the *Baybaşin* decision of 2005 the Court held:

> "Although the Court accepts that the applicant, being already subjected to a great number of stringent control measures, may have perceived the random strip-searches carried out after 1 March 2003 and/or the three incidental strip-searches in 2003 which were based on particular reasons as awkward, debasing and humiliating, it cannot find that – in the particular circumstances of the applicant's case – to be subjected to random strip-searches with a frequency not exceeding an average of twice a month or to incidental strip-searches based on particular reasons should be regarded, in itself or on account of having had such adverse effects on the applicant's mental health, as amounting to treatment attaining the minimum level of severity required in order to fall within the scope of Article 3 of the Convention."

48. As recognised by the Court in 2006, the random selection system was introduced in 2003 precisely in order to ensure compliance with the Convention (see *Baybaşin*, cited above, §§ 21 and 80; see also Final Resolution CM/ResDH(2009)133, adopted by the Committee of Ministers on 3 December 2009 at the 1072nd meeting of the Ministers' Deputies).

49. Considering that the scope of the case concerns one strip search only, it is unnecessary for the Court to examine the applicant's claims about strip searches on other occasions (see paragraphs 33-34). In any event, having regard to the scope of the case and the contents of the case file, the Court sees no indication that the strip search in question comprised part of a regime that subjected – or was likely to subject – him to more than two searches a month on average. In this connection the Court also considers that the applicant did not substantiate his claims that the randomiser was set in a way so that it turned red more often than one in ten times or that its configuration would lead to him specifically being searched more than twice a month on average.

50. The Court notes that it does not appear – and nor has it been alleged – that the strip search took place in violation of the relevant domestic law (see also *S.J. v. Luxembourg (No. 2)*, no. 47229/12, §§ 55 and 59, 31 October 2013, and *Dejnek v. Poland*, no. 9635/13, §§ 61-62, 1 June 2017), that it was carried out with debasing elements that significantly aggravated the inevitable humiliation entailed in the procedure (contrast *Valašinas v. Lithuania*, no. 44558/98, § 117, 25 July 2001, and *Iwańczuk v. Poland*, no. 25196/94, §§ 57-59, 15 November 2011), or that it had any adverse

effects on the applicant's health (see also *Dejnek*, cited above, §§ 61 and 63-64).

51. The Court also notes that the domestic procedure for the impugned search was set out in detailed rules and instructions (see paragraphs 17-19 above) which, as required under Article 3 of the Convention (see *Frérot v. France*, no. 70204/01, § 47, 12 June 2007), limited the discretion of the prison authorities.

52. The Court notes further that prisoners can challenge a decision to impose a strip search in adversarial proceedings before the penal institution's Complaints Commission and the RSJ-appointed Appeals Board (see paragraphs 21-24 above). Indeed, the applicant exercised his right to challenge the impugned measure in domestic proceedings (see paragraphs 7-12 above), the effectiveness and fairness of which he did not call into question either domestically or before the Court.

53. Turning to the fact that the impugned strip search was carried out because the applicant had been randomly selected after a visit from his lawyer, the Court considers the following.

54. The Court agrees with the Government (see paragraph 43 above) that the neutral operation of the "randomiser" ensures that all prisoners are treated indiscriminately, and that the regular and random nature of such searches mitigates the risk of prisoners (or their visitors, including lawyers) being pressured by others to smuggle prohibited items, which may occur if some prisoners are searched less frequently or not at all. In this connection, the Court reiterates that the preservation of prison security and prevention of crime or disorder constitute legitimate objectives (see, among many authorities, *Frérot*, § 38, and *Roth*, § 65, both cited above).

55. The Court considers that preventive security measures such as strip searches need not always be based on concrete suspicions of individual wrongdoing on the part of a prisoner or his or her visitor.

56. The Court is mindful that contact between a lawyer and his or her client is a "distinct" and particularly protected category when assessing the compatibility of security and surveillance measures with the Convention (see the cases cited in paragraphs 46-49 above; see further, for example, *Kopp v. Switzerland*, 25 March 1998, § 73, *Reports of Judgments and Decisions* 1998-II; *Saber v. Norway*, no. 459/18, §§ 52 and 55, 17 December 2020; and *Särgava v. Estonia*, no. 698/19, §§ 98-99, 16 November 2021). The authorities must respect and protect the special status of a lawyer also in relation to clients being held in detention. For example, to ensure that lawyer-client rights under the Convention are effectively enjoyed, the prison authorities are generally expected to distinguish between the different categories of persons with whom the prisoners correspond (see, among many authorities, *Campbell v. the United Kingdom*, 25 March 1992, §§ 46-48, Series A no. 233; *Namazli v. Azerbaijan*, no. 8826/20, §§ 47 and 51, 20 June 2024; and *Petrov v. Bulgaria*, no. 15197/02, § 44, 22 May 2008).

57. In *Adamčo* (cited above) the Court examined the case of a prisoner who had been systematically subjected to many strip searches before and after receiving "open visits", including visits from his lawyers (ibid., §§ 1 and 15). Assessing the security regime as a whole, it found a violation of Article 3 of the Convention. In this connection, the Court observed, *inter alia*, that the justification relied on by the authorities had amounted to "presuming illicit dealings with [the applicant's lawyers] and viewing his contacts with them in the same light as his contacts with any other person, despite the lawyers' added deontological duties and responsibilities" (ibid., § 93; see also ibid., § 121, as regards a similar complaint under Article 8 of the Convention).

58. Without calling into question the above-mentioned observation, the Court is of the view that the present case can be distinguished from *Adamčo* for several reasons.

59. First and foremost, in *Adamčo* the Court took issue with the fact that the applicant had been subjected to strip searches, both in prison and during his movements outside of it, without regard for the complex set of other security arrangements – such as blindfolds, limb-restraining devices and surveillance – which were aimed at limiting the risk of his coming into possession of anything prohibited (ibid., §§ 94 and 99). The Court also emphasised that the domestic authorities had rejected the applicant's complaints in abstract and general terms, giving no consideration to his substantive arguments and individual circumstances (ibid., §§ 88-89, 92 and 100). Further, the Court noted that sufficiently detailed rules on the implementation of the strip searches had been lacking (ibid., § 96). And while owing to the absence of records it was unable to determine the exact number of the instances in which the applicant had been strip searched, the Court found that it had happened "frequently and great many times" (over 1,000 times; see ibid., § 97). It was the combination of these factors which led the Court to conclude that the practice of systematic strip searches had been carried out without any convincingly established security needs, in breach of Article 3 of the Convention (ibid., §§ 99-102).

60. Those factors do not obtain in the present case. Indeed, the impugned strip search was governed by detailed rules and instructions which set out the relevant procedure, including as regards the keeping of records (see paragraphs 18 and 19 above). The Court is further of the view that the domestic authorities provided relevant and sufficient reasons for dismissing the applicant's substantive arguments, explaining why they considered the strip search necessary to maintain prison security despite the presence of other security arrangements which were aimed at limiting the risk of illicit dealings on his or his lawyer's part (see, in particular, the domestic authorities' arguments set out in paragraphs 8, 10, 12 and 38 above). Lastly, as already noted (see paragraph 49 above), the applicant complained about one strip search only, whereas that measure was part of a security regime

whose design prevented him from being randomly selected for a strip search more than twice a month on average.

61. In view of the above, the Court is satisfied that the impugned strip search did not go beyond the inevitable element of suffering or humiliation connected with a given form of legitimate treatment (contrast *Roth,* § 72, and *Frérot,* § 47, both cited above). Accordingly, the Court concludes that it did not constitute ill-treatment within the meaning of Article 3 of the Convention. There has therefore been no violation of that provision.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

A. Admissibility

62. The Court notes that the 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

(a) The applicant's submissions

63. Referring to his submissions in respect of the complaint under Article 3 of the Convention (see paragraphs 32-36 above), the applicant submitted that the strip search also violated Article 8 of the Convention.

(b) The Government's submissions

64. In the Government's view, the strip search constituted an interference which was justified under Article 8 § 2 of the Convention, as it was based on in section 29(1) of the Prisons Act and the "House rules of the De Schie custodial institution in Rotterdam" (see paragraphs 13 and 17 above), and it was necessary and proportionate in the interests of preserving prison security and preventing crime and disorder. In respect of the latter, the Government referred to their submissions in the context of Article 3 of the Convention (see paragraphs 37-43 above), noting further that the frequency with which such searches were conducted was strictly limited and monitored, that the randomiser ensured that the selection for a strip search was neutral and could not be influenced or abused, and that prisoners who were subjected to a strip search had access to legal protection (see paragraphs 21-24 above).

2. The Court's assessment

65. The Court reiterates that where a measure falls short of Article 3 treatment, it may fall foul of Article 8 of the Convention which, *inter alia*, provides for the protection of physical and moral integrity under the head of

respect for the individual's private life. There is no doubt that the requirement to undergo a strip search will generally constitute an interference under the first paragraph of Article 8 and must be justified in terms of the second paragraph, namely as being "in accordance with the law" and "necessary in a democratic society" for one or more of the legitimate aims listed therein. According to the settled case-law, the notion of necessity implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued (see *Dejnek*, cited above, § 70).

66. Turning to the present case, the Court notes that the impugned strip search had a basis in domestic law, namely section 29(1) of the Prisons Act and the "House rules of the De Schie custodial institution in Rotterdam" (see paragraphs 13 and 17 above). It is further satisfied that it pursued the legitimate aims of "the prevention of disorder or crime" and "the protection of the rights and freedoms of others" (see also *Dejnek*, cited above, § 71, and *Jaeger v. Estonia*, no. 1574/13, § 46, 31 July 2014). The Court therefore needs to proceed to determine whether the search in question, in the manner in which it was carried out, was necessary and proportionate.

67. The Court reiterates that many of the elements assessed above in the context of Article 3 are also relevant for the assessment of the proportionality of the measure under the second paragraph of Article 8. It is therefore unnecessary to repeat these factors that are normal in any search procedure and do not refer to any suffering or humiliation going beyond that inevitable element of suffering or humiliation connected with the given form of legitimate treatment (see also *Jaeger*, cited above, § 47).

68. The Court considers that the impugned strip search was necessary and proportionate in the circumstances of the case. It was carried out after the applicant had been visited by someone from the outside world (that was, his lawyer). Such visits pose an inherent risk of contraband being smuggled into prison. Moreover, the applicant was selected on a purely random and indiscriminate basis, there is no indication that the search was conducted without due respect for his privacy (contrast *Jaeger*, cited above, § 49), and he had the right to contest the lawfulness of the measure in adversarial proceedings (see paragraph 52 above; and contrast *Dejnek*, cited above, § 75).

69. In view of the above, the Court concludes that the impugned strip search did not give rise to a violation of the applicant's rights under Article 8 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 6 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı Registrar	Lado Chanturia President