



## Tali v. Estonia

Application No. 66393/10; [2014] ECHR 294

**Country:** Estonia

**Region:** Europe

**Year:** 2014

**Court:** European Court of Human Rights European Court of Human Rights

**Health Topics:** Prisons

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment

### Facts

Mr. Tali, an Estonian sentenced to life in prison, claimed he was subjected to inhuman and degrading treatment contrary to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (‘‘Convention’’). On July 3 2009, Tali was told he would be taken to a punishment cell. The guards used defensive equipment to aid in Tali’s transfer, during which Tali resisted and sustained injuries. The nurses who examined Tali suspected he had a broken rib. He thought the nurses would produce a medical certificate allowing him to keep a mattress in the cell permanently.

The next day, July 4, guards came to Tali’s cell to collect the mattress. Tali was pepper sprayed and forced to the floor, then strapped on a restraint bed for almost four hours. The guards checked him hourly to determine whether he was calm enough to be released. He was seen twice by medical staff, who found that Tali had several hematomas, blood in the urine, and crepitation in the ribs.

An investigation was launched in response to Tali’s allegations of abuse of authority. The police investigator, State Prosecutor’s Office, and Tartu Court of Appeal all found that the prison guards’ use of force was proportionate to Tali’s aggressive resistance and that the use of special equipment and means of restraint were lawful and necessary.

Tali also filed a claim for non-pecuniary damages. The Tartu Administrative Court held that although the means of restraint and use of special weapons were unlawful, Tali’s own unlawful actions were just satisfaction, so no compensation was warranted.

### Decision and Reasoning

The Court held that the guards had reason to take immediate action against any resistance by Tali based on his past aggressive behavior and lengthy disciplinary history. With regards to the events of July 3, the Court held that there was no violation of Article 3 of the Convention. The guards’ use of defensive equipment was proportionate to Tali’s statement that he would resist them, and his actual resistance. The Court held that the guards did not use excessive force.

In contrast, the Court held that the events of July 4 were a violation of Article 3. The Court referred to a report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which condemned the use of pepper spray in confined spaces and as a standard component of prison guards’ equipment. Here, the use of pepper spray was excessive given the other measures available to the guards. The Court noted that it was unclear whether Tali was hit with the baton before or after being handcuffed, and that it could not determine the exact facts of the case better than the domestic authorities had. The Court likened the use of the restraint bed on Tali to the recent case of *Julin v. Estonia* ([2012] ECHR 889). Even though Tali was assessed by staff and restrained for a shorter period of time than the applicant in *Julin*, the Court nevertheless held that the restraint bed was unjustified because Tali did not pose a sufficient threat to himself or others.

### Decision Excerpts

‘‘treatment has been held by the Court to be inhuman because, inter alia, it was premeditated, was for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering, and also degrading because it was such as to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them. In order for punishment or treatment to be inhuman or degrading’’

suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment.â€• [Citations omitted] Para. 57.

â€œThe Court accepts that the use of force may be necessary on occasion to ensure prison security, and to maintain order or prevent crime in detention facilities. Nevertheless, such force may be used only if indispensable [sic] and must not be excessive. Recourse to physical force which has not been made strictly necessary by the detaineeâ€™s own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention.â€• [Citations omitted] Para. 59.

â€œ! means of restraint should never be used as a means of punishment, but rather in order to avoid self-harm or serious danger to other individuals or to prison securityâ€• Para. 81.

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