[Gjini v. Serbia (no. 1128/16)](http://www.prisonlitigation.org/?email_id=99&user_id=140&urlpassed=aHR0cDovL2h1ZG9jLmVjaHIuY29lLmludC9lbmc%2FaT0wMDEtMTg5MTY4&controller=stats&action=analyse&wysija-page=1&wysijap=subscriptions" \t "_blank)

The case concerned inter-prisoner violence. The applicant complained that the prison administration failed to protect him against repeated assault from his cell mates. In addition, the applicant complained that there had not been an effective investigation into his complaint.

The Court first observed that the domestic courts found “as a result of his suffering in detention, the applicant had lost 10% of his general vital activity” (§82). The Court therefore considered it had been “established that the applicant suffered ill-treatment at the hands of his cellmates, and that that ill-treatment was of such severity that Article 3 applies” (§83).

As regards the State responsibility for the applicant’s suffering, the Court noted that inter-prisoner violence, and the failure of the medical personnel to properly record the injuries related thereto, in the prison in which the applicant had been held had been repeatedly pointed out in the CPT reports. In addition, the Court observed that the prison guards could not have ignored the many physical signs indicating that the applicant had been subjected to ill-treatment (eyebrows and head shaved, skin damaged), and the fact that a Croatian of Albanian origin had been forced to sing nationalist songs at night (§86). The Court concluded “that the prison authorities failed to notice or react to any of the signs of violence listed above; they further failed to secure a safe environment for the applicant and, also, failed to detect, prevent or monitor the violence he was subjected to” (§87).

As regards the investigation into the applicant’s ill-treatment, the Court observed at the outset that no criminal investigation had been conducted. As regards the question whether “the applicant’s failure to lodge a formal criminal complaint either prevented the State authorities from carrying out the investigation or relieved them of their general duty to do so” (§99), the Court noted that the authorities could not ignore the applicant’s ill-treatment, and that Serbian law imposes an obligation “on all public authorities to report criminal offences subject to public prosecution of which they are informed” (§101). Therefore, the Court concluded “that the absence of a criminal complaint by the applicant did not prevent the public prosecutor from initiating criminal proceedings or preclude other domestic authorities from informing the public prosecutor about the allegations of ill-treatment” (§102).