

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

FIFTH SECTION

DECISION

Application no. 6008/10
Sead BATANOVIĆ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 26 June 2012 as a Committee composed of:

Ann Power-Forde, *President,*
Boštjan M. Zupančič,
Angelika Nußberger, *judges,*

and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 December 2009,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Sead Batanović, was a national of Bosnia and Herzegovina, who was born in 1971 and lived in Zvornik. He was represented before the Court by Odvetniška Družba Matoz O.P. D.O.O., a law firm practising in Koper.

The Slovenian Government ("the Government") were represented by their Agent, Mrs N. Pintar Gosenca, State Attorney.

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant was serving his sentence in the closed section of Dob Prison in the period between 2 July 2008 and 10 December 2009. His term of imprisonment was supposed to end on 12 July 2010.

Between 4 July and 6 February 2009 the applicant was held in cell no 1, Block 4 which measures 59.89 square metres and held fifteen inmates (4 square metres of personal space available to each inmate). Subsequently, he was transferred to cell no. 38, Block 1, which measures 17.96 square

metres and accommodated three inmates (6 square metres of personal space available to each inmate).

As regards the facilities available to the applicants in the cells and common areas, as well as the health care regime in the prison, the conditions imposed on the applicants regarding activities outside the cells and contact with the outside world, see the Court's decision in the case of *Lalić and Others v. Slovenia* (dec.), nos. 5711/10, 5719/10, 5754/10, 5803/10, 5956/10, 5958/10, 5987/10, 6091/10, 6647/10 and 6893/10, 27 September 2011.

On 10 December 2009 the applicant was transferred to Koper Prison.

On 27 April 2010 the application was communicated to the respondent Government for observations.

On 23 December 2010 the Court received observations by the respondent Government.

On 21 April 2011 the Court received the applicant's representative's response to the Government's observations.

On 16 June 2011 the respondent Government informed the Court that the applicant had died on 11 February 2011.

On 7 July 2011 the Court requested by a letter sent by fax the applicant's representative to inform the Court whether any heirs of the applicant wished to pursue his application. No response has been received within the period allowed for submission and no extension of the time was requested. On 5 September 2011 the Court by a letter send by registered post and delivered to the applicant's representative on 19 September 2011 reminded the applicant's representative of his failure to reply and drew his attention to the consequences of such failure according to Article 37 § 1 (a) of the Convention. No response has been received to that letter.

COMPLAINTS

The applicant complained that the conditions of his detention in Dob Prison amounted to a violation of Articles 3 and 8 of the Convention. In particular, he complained of severe overcrowding, which had led to a lack of personal space, poor sanitary conditions and inadequate ventilation, as well as excessive restrictions on out-of-cell time, high temperatures in the cells, inadequate health care and psychological assistance, inadequate measures as regards the rehabilitation of drug addicts and exposure to violence from other inmates due to insufficient security. He also submitted that the situation amounted to a structural problem which had been acknowledged by the domestic authorities.

Citing Articles 3 and 8 of the Convention, the applicant also complained of restrictions on visits, telephone conversations and correspondence.

The applicant lastly complained under Article 13 that he did not have any effective remedy at his disposal as regards his complaints under Articles 3 and 8 of the Convention.

THE LAW

The Court notes that in a number of cases in which the applicant died while the application was pending before the Court it has taken into account the statements of the applicant's heirs or close family members expressing the wish to pursue the proceedings before the Court (see, among other authorities, *Deweer v. Belgium*, 27 February 1980, § 37, Series A no. 35; *Malhous v. the Czech Republic* (dec.), no. 33071/96, ECHR 2000-XI; *Kovačić and Others v. Slovenia*, nos. 44574/98, 45133/98 and 48316/99, § 178, 6 November 2006). However, in cases where no heirs or close relatives expressed the wish to pursue the application, it has been Court's practice to strike the applications out of the list of cases (see, among other authorities, *Scherer v. Switzerland*, judgment of 25 March 1994, Series A no. 287, pp. 14-15, § 31: *Thevenon v. France* (dec.), no. 2476/02, ECHR 2006-III), unless special circumstances, as defined in Article 37 § 1 *in fine*, existed that required the examination of the application (see, *Karner v. Austria*, no. 40016/98, § 27, ECHR 2003-IX).

As regards the present case, the Court notes that the applicant died on 11 February 2011, in the course of proceedings before the Court. After the respondent Government had on 16 June 2011 informed the Court of the applicant's death, the Court, by a letter sent by fax on 16 June 2011, requested the applicant's representative to indicate whether there were any heirs who wished to pursue the application. After the representative failed to reply, the Court by a letter delivered to the applicant's representative on 19 September 2011 reminded him of his failure to reply and drew his attention to Article 37 § 1 (a) of the Convention. However, the Court has received no response by the applicant's representative.

In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, having regard to the fact that similar issues have been resolved in other cases before it (see, for *Lalić and Others v. Slovenia* (dec.), nos. 5711/10, 5719/10, 5754/10, 5803/10, 5956/10, 5958/10, 5987/10, 6091/10, 6647/10 and 6893/10, 27 September 2011), the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Stephen Phillips
Deputy Registrar

Ann Power-Forde
President