

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

FIFTH SECTION

DECISION

Application no. 5835/10
Darinko BRAJDIČ
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 8 January 2010,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Darinko Brajdič, is a Slovenian national, who was born in 1968 and lives in Raka. He is represented before the Court by Odvetniška Družba Matoz O.P. D.O.O., a law firm practising in Koper.

The Slovenian Government ("the Government") are represented by their Agent, Mrs Andreja Vran, State Attorney.

A. The circumstances of the case

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

The applicant has been serving his sentence in the closed section of Dob Prison since 7 October 2005.

As regards the facilities available to the applicant in the cells and common areas, as well as the health care regime in the prison, the conditions imposed on the applicant regarding activities outside the cells and contact with the outside world in general, 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.

Until March 2007 the applicant was held in cell no 5, Block 4 which measured 59.25 square metres and held sixteen inmates (3.70 square metres of personal space available to each inmate). From March 2007 the applicant has been held in cell no 2, Block 4 which has measured 59.89 square metres and has held 11 inmates (5.44 square metres of personal space available to each inmate).

According to the report by the prison clinic dated 2 June 2011 the applicant has on two occasions, on 26 May 2008 and 19 May 2011, sought treatment in the prison clinic regarding his mental health problems. Between January 2011 and May 2011 the applicant had five sessions with a psychiatrist. He was prescribed anxiolytics and other drugs. The report by the prison administration dated 6 July 2011 does not disclose any indication that the applicant sought any further support from the prison psychologist.

On 6 August 2009 the applicant injured the little finger on his left hand while he was operating a press in the Pohorje Mirna prison work plant. An abrasion of the skin and a swollen upper knuckle were found. The abrasion was cleaned and the bandage changed on 7 August 2009 and 10 August 2009. According to the Government's submissions dated 23 December 2010 on 18 November 2005 the applicant had signed a declaration that he had been trained for carrying out the work that had been assigned to him and that he had received training and instructions regarding the regulations concerning safety at work. The Notification of the Accident at Work Form dated 6 August 2009 and the findings of the insurance company dated 18 September 2009 indicated that the applicant had probably not been wearing protection gloves when the accident had occurred and that the accident occurred also due to his alleged inattentiveness.

B. Relevant domestic law and practice

For the relevant domestic law and practice, see paragraphs 33-35 and 38-47 of the Court's judgment in the case of *Štrucl and Others v. Slovenia* (nos. 5903/10, 6003/10 and 6544/10, 27 September 2011), and paragraphs 34-36 of *Mandić and Jović v. Slovenia* (nos. 5774/10 and 5985/10, 27 September 2011), *Lalić and Others*, cited above, as well as *Mešić v Slovenia* (no. 5767/10, 22 November 2011) and *Ferenc v. Slovenia* (no. 6682/10, 13 March 2012).

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 time spent outside the cell, 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 owing to insufficient prison security. He further submitted that the situation amounted to a structural problem, which had been acknowledged by the domestic authorities.

In addition, the applicant complained that he had not received adequate medical treatment, especially in connection with his mental distress.

The applicant further complained that he had been injured at work and that the prison authorities failed to provide for sufficient safety at work.

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 does not find it necessary to examine the Government's objections concerning the issue of exhaustion of domestic remedies and compliance with the six-month rule, as the application should in any event be declared inadmissible for the reasons set out below.

As regards the applicant's complaint that he had not received adequate medical assistance regarding his mental distress, the Court recalls that Article 3 imposes an obligation on the States to ensure that the health and well-being of detainees are adequately secured by, among other things, providing them with the requisite medical assistance (see *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI). The Court would further note that information relating to detention often falls within the knowledge of the domestic authorities. Accordingly, applicants might experience certain difficulties in procuring evidence to substantiate a complaint in that connection. Still, in such cases applicants may well be expected to submit at least a detailed account of the facts complained of and to provide – to the greatest possible extent – some evidence in support of their complaints (see, *mutatis mutandis*, *Visloguzov v. Ukraine*, no. 32362/02, § 45, 20 May 2010; *Mešić v. Slovenia*, cited above; and *Ferenc v. Slovenia*, cited above).

Turning to the circumstances of the present case, the Court notes that the applicant provided no evidence or details as regards his allegations whereas the Government submitted that the applicant has only on two occasions sought treatment by the prison clinic regarding his mental health, that he had five sessions with the psychiatrist, as well as that he had not sought additional support from the prison psychologist. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

As regards the applicant's complaint concerning his injury at work and his allegations that the prison authorities failed to provide for sufficient safety at work, the Court does not find any omissions on the part of the State as regards the prevention and the treatment of the minor injury sustained by the applicant at the prison work plant. The applicant did not dispute the Government's submissions that he had received training regarding safety at work; he had himself signed a declaration that he had been trained for his tasks and had not disputed the submissions by the government that he had not acted according to the instructions on safety at work. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

As regards the remainder of the applicant's complaints on general conditions of detention in the closed section of Dob Prison, the Court notes that these complaints are identical to those of the applicants in the case of *Lalić and Others* (cited above). In that case the Court has found the general conditions of detention in the closed section of Dob Prison, including the medical and psychological care provided to the prisoners held therein, as well as the arrangements concerning security measures, and the restrictions on maintaining contact with people outside the prison to be adequate *vis-à-vis* the Convention standards. It has accordingly also rejected the applicant's complaint under Article 13 of the Convention, as no arguable claim for the purpose of the aforementioned provision could have been established.

The Court takes note of the similar factual background of the aforementioned case and the present application, including the fact that the present applicant always had sufficient personal space in the cell in which he was detained. It follows that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Stephen Phillips
Deputy Registrar

Ann Power-Forde
President