

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

FIFTH SECTION

DECISION

Application no. 5778/10
Astor BRAJDIČ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 13 November 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 18 December 2009,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Astor Brajdič, is a Slovenian national, who was born in 1981 and lives in Novo Mesto. 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 N Pintar Gosenca, 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 9 December 2008.

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.

Between 12 December 2008 and 14 October 2009 the applicant was held in cell no 5, Block 3 which measured 59.25 square metres and held fourteen inmates (4.23 square metres of personal space available to each inmate). From 14 October 2009 the applicant has been held in cell no 4, Block 3 which measures 59.89 square metres and holds 14 inmates (4.28 square metres of personal space available to each inmate), except for the periods between 23 February 2010 and 2 March 2010 and between 20 May 2010 and 28 May 2010 when he was transferred into one of the smaller shared cells in Block 1 that serve as patients' rooms, measuring between 15.83 and 17.96 square metres and accommodating three inmates (at least 5.28 square metres of personal space available to each inmate).

The applicant is of Roma ethnic origin. According to the reports by the prison administration there has been no record of a case of discrimination or conflicts between inmates that was triggered by the applicant's ethnic origin. In the period between December 2008 and January 2011 the applicant visited the psychiatrist on thirty-four occasions. He sought assistance mainly in connection with his substitution therapy and his anxiety and depression disorder but, according to the report by the prison clinic dated 7 December 2010, also because he wished to talk to someone. Between December 2008 and November 2009 the applicant had ten appointments with the prison psychologist. The reasons for the applicant's visits to the psychologist included the adaptation to reception, his conflicts with fellow inmates and dealing with his mother's death. According to the Government's submissions, neither the protocols of the psychiatrist nor those of the psychologist disclose that the applicant ever sought help explicitly due to the alleged discrimination on account of his Roma ethnic origin.

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 assistance in connection with his mental distress due to him being a victim of discrimination by the inmates on account of his Roma ethnic origin.

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 assistance and response in connection with his mental distress due to him being a victim of discrimination by the fellow inmates on account of his Roma ethnic origin, 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 and also did not dispute the Government's submissions that there was no record of a case of discrimination or conflicts among the inmates that were triggered by the applicant's ethnic origin and that during his visits with to the psychiatrist and psychologist he had never addressed the alleged discrimination on account of his Roma ethnic origin. Furthermore, the applicant also did not dispute the submissions of the Government regarding the methods of prevention of conflicts among the inmates and procedures in cases of conflicts. 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 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 accordingly also rejected the applicant's complaint under Article 13 of the Convention, as no arguable claim for the purpose of the aforementioned provision had 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	Ann Power-Forde
Deputy Registrar	President