

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

FIFTH SECTION

DECISION

Application no. 6559/10
Tomaž ČUDEN
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 12 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 18 December 2009,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Tomaž Čuden, is a Slovenian national, who was born in 1972 and lives in Radovljica. 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. Aleš Verdir, 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 was serving his sentence in the closed section of Dob Prison in the period between 13 July 2006 and 13 January 2010.

Between 17 July and 17 December 2008 the applicant was held in cell no 5, Block 3 which measures 59.25 square metres and accommodated fourteen inmates (4.23 square metres of personal space available to each inmate). Subsequently, he was transferred to cell no. 9, Block 3, which measures 33.23 square metres and accommodated five inmates (6.65 square metres of personal space available to each inmate).

On 14 January 2007 the applicant was attacked by a fellow prisoner who slapped him on the left cheek. On the following day he sought medical assistance with the general practitioner. The physician found no signs of injury.

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.

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), as well as *Lalić and Others*, cited above.

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. The applicant also submitted that he had been attacked by his fellow prisoners.

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, as regards the part of the complaint concerning the alleged attacks on the applicant by his fellow prisoners, the only event recorded in this respect took place on 14 January 2007, hence more than six months before the applicant lodged the application with the Court and that no remedies were pursued in respect of it. It follows that this complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

As regards the remainder of the applicant's complaints concerning general conditions of detention in the closed section of Dob Prison, 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.

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