

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

FIFTH SECTION

DECISION

Application no. 6452/10
Marko DRAGIŠIĆ
against Slovenia

The European Court of Human Rights (Fifth Section), sitting on 2 October 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 Marko Dragišić, is a Slovenian national, who was born in 1979 and lives in Ljubljana. 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 V Klemenc, 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 between 20 November 2006 and 29 March 2011.

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 24 November 2006 and 28 February 2007 the applicant was held in cell no 2, Block 3 which measured 59.89 square metres and held fourteen inmates (4.28 square metres of personal space available to each inmate). From 28 February 2007 and 21 August 2007 the applicant was held in cell no 1, Block 3 which measured 59.89 square metres and held 15 inmates (4 square metres of personal space available to each inmate). Between 21 August 2007 and 31 August 2007 the applicant was transferred into one of the smaller shared cells in Block 1 that served as rooms for inmates that needed to be placed under a stricter regime, 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). From 31 August 2007 the applicant was placed 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).

On 3 December 2007 the applicant suffered an injury while he was operating a press in the Pohorje Mirna prison work plant. In the application the applicant alleged that he had lost two fingers. According to the Notification of the Accident at Work Form dated 3 December 2007 and the report by the prison clinic dated 20 December 2010 the applicant had suffered an injury to the ligaments of the thumb on his right hand.

According to the report by the prison clinic dated 10 June 2011 the applicant never mentioned his alleged mental distress to the general practitioner. On 5 October 2009 the applicant asked for an appointment with the psychiatrist who received the applicant on 8 October 2009. A follow-up appointment was scheduled for 16 November 2009 but the applicant refused to attend. The applicant again sought the assistance of the psychiatrist on 26 January 2011 due to his sleeping problems. The applicant was prescribed sleeping pills but refused to see a psychiatrist for a follow-up appointment scheduled for 23 February 2011. He then appeared to the follow-up appointment on 9 March 2011 when he was prescribed anxiolytics.

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 been injured at work and that the prison authorities failed to provide for sufficient safety at work.

The applicant further complained that he had not received sufficient medical assistance in connection with his mental distress.

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 injury the applicant had suffered while working in the prison work plant, this event took place on 3 December 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, 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 never mentioned his alleged mental distress to the general practitioner and that he had only twice asked for an appointment with the psychiatrist but then refused to attend two of the follow-up appointments. 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 had 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 had 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 Deputy Registrar	Ann Power-Forde President