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

FIRST SECTION

DECISION

Application no. 3831/18
Piotr HRUSZKA
against Poland

The European Court of Human Rights (First Section), sitting on 30 August 2022 as a Committee composed of:

Péter Paczolay*, President,*
Alena Poláčková*,*
Davor Derenčinović*, Judges,*
and Liv Tigerstedt, Deputy Section Registrar,

Having regard to:

the application (no. 3831/18) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 3 January 2018 by a Polish national, Mr Piotr Hruszka, born in 1974 and currently detained in Sieradz ("the applicant"), who had been granted legal aid and was represented by Ms A. Bzdyń, a lawyer practising in Warsaw;

the decision to give notice of the complaints concerning the conditions of the applicant's transfer from a detention centre to a local prosecutor's office to the Polish Government ("the Government"), represented by their Agent, Mr J. Sobczak, of the Ministry of Foreign Affairs, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the applicant's transport in a prison van between the detention centre and the local prosecutor's office.

2. Since 2004 the applicant has been serving several prison sentences. At the time of the events in question he was detained in Piotrków Trybunalski Detention Centre.

A. The accident

3. On 21 November 2013 the applicant was transported by prison van from Piotrków Trybunalski Detention Centre to the local District Prosecutor's Office. He was placed in the secure rear compartment located at the back of the vehicle. The compartment was not equipped with seatbelts. The applicant was handcuffed and was sitting on one of the side benches. While the van was driving at low speed, another car drove into it.

4. As a result of the accident the applicant and the police officers escorting him were hurt. The applicant suffered several injuries: a twisted acromioclavicular joint, a neck injury and a head injury. He was taken to a hospital, where he was examined and put in a plaster cast. Subsequently on the same day he was transported back to the detention centre.

5. The applicant submitted that he had worn a plaster cast for three months and during that period he had required help from his fellow inmates. He also wore a cervical collar for a year.

B. Civil proceedings

6. On 25 August 2014 the applicant lodged a claim for damages against the State Treasury (Chief Police Commandant) seeking 80,000 Polish zlotys (PLN – approximately 17,780 euros (EUR)) in compensation for the injuries that he had suffered during the prison van accident.

7. On 15 November 2016 the Piotrków Trybunalski Regional Court dismissed the claim, finding that the State Treasury had not acted unlawfully. In the absence of unlawfulness, no breach of personal rights could be found. The applicant had been transported in the rear compartment of a special prison vehicle which was not equipped with seatbelts. According to the relevant regulations, the obligation to wear seatbelts applied only to seats equipped with such belts. The applicant had therefore been transported in a correct manner. Moreover, the accident had been caused by a third party and the driver of the prison van had not been in any way responsible. As regards the applicant's injuries, the court heard an expert witness and held that the applicant's protracted injury had been caused by a twisted acromioclavicular joint. The remaining injuries were not of a long-lasting nature. Even before the accident the applicant had reported numbness in his fingers to a prison doctor. Therefore, it was found that out of the 5% incapacity that the applicant had suffered after the accident, 3% had already existed before the accident as a result of spinal degeneration.

8. On 28 September 2017 the Łódź Court of Appeal dismissed an appeal by the applicant, fully accepting the findings made by the first-instance court and that court's legal assessment of those findings.

C. Criminal proceedings

9. On 18 June 2014 the Piotrków Trybunalski District Court found I.B. guilty of causing a road accident and conditionally discontinued the criminal proceedings against her on the basis of one year's probation. The applicant was also granted PLN 1,000 (approximately EUR 222) as partial compensation.

D. Complaints

10. The applicant complained that he had been transported in a prison van in inadequate conditions, in particular that the van had not been equipped with seatbelts.

THE COURT'S ASSESSMENT

11. The Government submitted that the application should be declared inadmissible for non-exhaustion of domestic remedies, since the applicant had not lodged a cassation appeal against the judgment of the Łódź Court of Appeal of 28 September 2017. They also contended that he had lost his victim status because he had been granted PLN 1,000 in the criminal proceedings, and that the application amounted to an abuse of the right of individual application. The Court does not consider it necessary to examine the Government's preliminary objections since the application is in any event inadmissible for the reasons set out below.

12. The applicant's complaints were communicated to the Government under Articles 3 and 8 of the Convention and the Court will therefore address the complaints in relation to these to provisions separately.

A. Article 3 of the Convention

13. As in the case of *Jatsõšõn v. Estonia* (no. 27603/15, § 43, 30 October 2018), the national legislation does not require all vehicles in which prisoners are transported to be fitted with seat belts. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment generally recommends that vans be fitted with adequate seating and fixtures to prevent prisoners from losing their balance when a vehicle moves (ibid., § 26). The Court has already held that the absence of a seat belt alone cannot lead to a violation of Article 3 (see *Voicu v. Romania*, no. 22015/10, § 63, 10 June 2014), while not ruling out the possibility that, in certain circumstances and in combination with other factors, the lack of a seat belt or handles might give rise to concerns under Article 3. In the present case, the applicant was transported in a prison van between the detention centre and the local prosecutor's office. He was handcuffed and placed in a rear

compartment of the van which had not been equipped with seat belts. As a result of an accident caused by a third party, the applicant suffered relatively moderate injuries (see paragraphs 4 and 7 above). He was immediately taken to a hospital, where the necessary assistance was offered to him. There were no aggravating factors in the instant case that would have required the applicant to be transferred in special conditions (compare *Engel v. Hungary*, no. 46857/06, § 28, 20 May 2010, where the applicant was a paraplegic and his wheelchair was left unsecured in a moving vehicle, and *Voicu* (cited above), where complete darkness in a prison van compartment was mentioned as a relevant factor).

14. The applicant's complaints were duly examined by the domestic courts, which found no unlawfulness on the part of the agents of the State either as regards the conditions of the applicant's transfer or as regards the accident for which the driver of the police van had not been responsible. Moreover, in the criminal proceedings against I.B. the applicant was granted PLN 1,000 as partial compensation. It appears that the applicant did not bring proceedings for further compensation against I.B., who had caused the accident.

15. Having regard to the Court's case-law indicated above and to the circumstances of the case, the Court does not consider that the treatment in issue attained the minimum level of severity required by Article 3 of the Convention.

B. Article 8 of the Convention

16. As regards the complaint under Article 8, and assuming that the provision is applicable and that there has been an interference with the applicant's private life, the Court considers that in the circumstances of the case it cannot be said that the State failed to fulfil any positive obligations. The prisoner's transfer was organised in accordance with domestic law and the applicant had no special condition that would have required transport with any particular security measures. As regards procedural obligations, the applicant's grievances were exhaustively examined by the civil courts and by a criminal court in proceedings against I.B. This complaint is therefore manifestly ill-founded.

C. Conclusion

17. It follows that the complaints under Article 3 and Article 8 of the Convention must be declared inadmissible and be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 22 September 2022.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President