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

FIRST SECTION

DECISION

Application no. 43341/22
Vojtech KAVEČANSKÝ
against Slovakia

The European Court of Human Rights (First Section), sitting on 19 February 2026 as a Committee composed of:

Frédéric Krenc*, President*,
Davor Derenčinović,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 43341/22) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 September 2022 by a Slovak national, Mr Vojtech Kavečanský ("the applicant"), who was born in 1979, lives in Košice and was represented by Ms E. Hencovská, a lawyer practising in Košice;

the decision to give notice of the application to the Slovak Government ("the Government"), represented by their Agent, Ms M. Bálintová;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present application concerns the material conditions of the applicant's detention in a police station in Košice and in Košice Prison (*Ústav na výkon väzby a výkon trestu odňatia slobody Košice* – "the prison"), limitations applied to his family visits, and the healthcare provided to him in the prison.

2. The applicant was arrested on 4 August 2021 and placed in police detention in a police station in Košice. On 7 August 2021 he was transferred to the prison.

3. Upon his admission to the prison he was placed in quarantine in cell no. 13 from 7 until 19 August 2021 owing to the ongoing COVID-19 pandemic. On the latter date he was transferred to a wing with an open regime, where he was detained in cell no. 219 until his release on 27 May 2022 – except for the period between 16 and 23 February 2022, when he was again placed in quarantine in cell no. 14 on account of his coming into contact with a person who had tested positive for COVID-19. According to the applicant, while he was in quarantine he had to spend 23 hours a day in his cell and had only one hour a day of outdoor exercise; he also submitted that the ceilings of cells nos. 13 and 14 (in which he had been accommodated) had been covered with damp.

4. On 12 May 2022 the Constitutional Court found a violation of the applicant's rights under Article 5 §§ 1 (c), 3 and 4 of the Convention in relation to his pre-trial detention and quashed the relevant domestic court decision (I. ÚS 189/2022). In his constitutional complaint the applicant did not raise any complaints under Article 3 of the Convention.

5. The Government submitted photographs and measurements showing that cell no. 219 measured 14.57 square metres, excluding the space occupied by the sanitary facilities and furniture. From 19 August until 14 September 2021 (27 days), 10 until 11 February 2022 (2 days), 8 until 14 March 2022 (7 days), 16 until 22 March 2022 (7 days), and 5 April until 17 May 2022 (43 days), the applicant shared the cell with three other inmates. During those periods, the personal space per inmate amounted to 3.64 square metres. During the remaining periods, the applicant shared the cell with one or two other inmates, and for five days in December 2021 he occupied the cell alone. In all those instances, the personal space allocated to him amounted to more than 4 square metres.

6. The Government submitted that the applicant had been detained in an open regime pursuant to section 37 of the Detention Act. Accordingly, he had been permitted to move freely within the corridor of his wing, which measured 68 square metres. According to a list of activities, the applicant had played table tennis, darts, poker and other card games on a few occasions. He had been entitled to one hour of outdoor exercise a day, which had constituted the minimum entitlement and had not precluded a longer duration. The outdoor yards measured between 17 and 39.5 square metres and were equipped with a bench, a pull-up bar, and a shelter against inclement weather.

7. In a letter of 10 October 2023, the Košice prison governor denied that there had been extensive reconstruction works during the periods in question and that the applicant had been placed in COVID-19-related quarantine as many times as he had alleged, noting that the applicant had only been placed in quarantine twice and that that measure had been based on a physician's decision and implemented in accordance with the regulations in force during the COVID-19 pandemic. The letter further stated that in March 2021 repairs

had been carried out on the windows in the corridors of the prison, and in June 2022 repairs had been carried out on the windows in the individual cells.

8. In an affidavit of 28 November 2023, M.K., a prisoner detained in the prison during the same period as the applicant, stated, *inter alia*, that (i) during a period of about two weeks in the spring of 2022 he and the applicant had had to spend 23 hours a day in their cells owing to the fact that the windows in the corridors were being replaced, and (ii) between 8 and 18 November 2021 and 30 November and 10 December 2021 they had been confined to their cells for 23 hours a day and had been allowed one hour a day of outdoor exercise, owing to the presence of inmates who had tested positive for COVID-19 in their wing.

9. It appears from the case file that the applicant and his father submitted complaints to the Healthcare Surveillance Authority (*Úrad Pre Dohľad Nad Zdravotnou Starostlivosťou* – "the HCSA"), which were dismissed on 22 June 2022 and 7 March 2023. Reviewing the applicant's health records and the therapeutic approach taken by the prison medical staff in relation to the complaints raised by them, the HCSA concluded that the treatment provided to the applicant for his PTSD, metabolic syndrome and alleged hand injury had been in compliance with the applicable rules and procedures (*lege artis*). It further appears from the case file that the applicant did not submit any complaints to the Public Prosecution Service ("the PPS") or the Constitutional Court.

10. The applicant submitted three expert reports from 2023 evaluating the healthcare provided to him by the prison. The psychiatric expert report stated in general terms that inadequate treatment of PTSD could worsen a patient's condition or prolong treatment. The expert report in respect of internal medicine and diabetology stated that it was not possible to quantify to what extent the ten-month interruption of the preventive treatment of the applicant's metabolic syndrome had had on his overall health; however, from a long-term perspective, it would have a negative impact, with the decisive factor being the extent to which the present metabolic disorders could be compensated for. The expert report in respect of general surgery and trauma surgery found that the method applied to treat the applicant's haemorrhoids had been non-standard. The applicant also submitted a disability card issued on 29 November 2023.

11. Relying on Articles 3, 8 and 14 of the Convention, the applicant complained of (i) the material conditions of his detention, (ii) his confinement to his cell for 23 hours a day during periods of COVID-19-related quarantine, (iii) the number of activities available to him in prison and the material conditions of the outdoor yards, (iv) the healthcare provided in the prison, and (v) the number of family visits and the manner of their execution. He also complained of discrimination compared to prisoners serving their sentences in minimum- or medium-security prisons.

THE COURT'S ASSESSMENT

12. The Court notes from the outset that the Government submitted various preliminary objections which the applicant disagreed with. The Court makes the following evaluation.

13. It accepts the Government's objection that the applicant's complaints are out of time in so far as they relate to his police detention from 4 until 7 August 2021 and the conditions of his detention until 23 February 2022. Having regard to the significant differences in the material conditions of cells designed for short-term police detention and those in the prison, and the subsequent changes in the detention regime in prison brought about by the applicant's transfer first from the quarantine cell no. 13 to a communal cell where he could move freely within the corridor of his wing, and then back to a quarantine cell, no. 14 (see paragraphs 2, 3 and 6 above), the period until 23 February 2022 cannot be regarded as falling within the scope of the continuing situation related to the remaining period of the applicant's detention in cell no. 219. Since the applicant argued that he had not had any effective domestic remedies at his disposal, he should have complained about those conditions within six months of the end of the each of the respective periods (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 76-78, 10 January 2012). As the present application was lodged on 5 September 2022, the applicant's complaints as far as they concern those periods were submitted too late for the purposes of Article 35 § 1 of the Convention.

14. The Court further notes that in *Ribár v. Slovakia* (no. 56545/21, §§ 71, 82-83 and 87, 12 December 2024), it found that detainees in a situation similar to that of the applicant were, in respect of certain conditions of detention, required to lodge a complaint with the PPS, followed by a constitutional complaint, if necessary. Therefore, the Court accepts the Government's non-exhaustion objection in relation to the applicant's complaints regarding access to hot water, access to light and air, the quality and quantity of the food (including the lack of regard shown to alleged dietary requirements), the frequency with which he could shower, the interference with sleep and the number and manner of execution of his family visits, since the applicant did not challenge them before the above-mentioned authorities (see paragraph 9 above).

15. The Court also accepts the Government's non-exhaustion objection in respect of the allegedly inadequate treatment of the applicant's medical conditions. There is nothing in the case file to suggest that the alleged violation would stem directly from the law and that the prison medical staff did not enjoy any room for discretion in the implementation of the applicable regulations (see paragraph 9 above). The applicant should therefore have lodged a complaint with the PPS and the Constitutional Court (see *Ribár*, cited above, § 82).

16. Accordingly, this part of the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

17. As regards the applicant's remaining complaints about the alleged overcrowding, the amount of time that he spent confined to his cell, the amount of time afforded to him for outdoor activities, the conditions in which those activities were undertaken, and the lack of any in-cell or other out-of-cell activities, the Court does not accept the Government's non-exhaustion objection, as it appears that the relevant statutory rules were in practice applied in a way that allowed for no significant discretion. As a result, the alleged violation stemmed directly from statute and could not have been effectively challenged at the domestic level (see *Ribár*, cited above, § 85). Nevertheless, this part of the application is inadmissible for the following reasons.

18. The general principles regarding conditions of detention, in particular with respect to prison overcrowding, were summarised in *Muršić v. Croatia* ([GC], no. 7334/13, §§ 96-101 and 136-41, 20 October 2016, with further references).

19. It was not disputed between the parties that, while in cell no. 219, the applicant's personal space measured more than 3 but less than 4 square metres during several non-consecutive periods, which together amounted to 57 days for the relevant period as from 23 February 2022 (see paragraphs 5 and 13 above). The Court reiterates that in such cases, the space factor remains a weighty factor in the assessment of the adequacy of conditions of detention, while other aspects such as access to outdoor exercise, natural light or air, availability of ventilation, adequacy of room temperature, the possibility of using the toilet in private, and compliance with basic sanitary and hygienic requirements also remain relevant (see *Muršić*, cited above, § 139).

20. The Court notes that the fact that the applicant was permitted to leave the cell during the day and freely move around the accessible facilities (see paragraph 6 above) should be taken into account as a significantly alleviating factor in relation to the personal space (see *İlerde and Others v. Türkiye*, nos. 35614/19 and 10 others, § 191, 5 December 2023, and contrast *Ribár*, cited above, §§ 95-96, where the applicant was detained under the standard regime and was thus confined to his cell most of the time). As regards the other material conditions of his detention, the applicant conceded that there had been no problems with hygiene in cell no. 219, that the sanitary facility had been entirely separated from the rest of the cell, and that there had been a sink with access to cold water. Moreover, although the applicant argued that he had not had enough personal space, elsewhere he contended that there had not been enough furniture for all prisoners (see *Muršić*, cited above, § 165). As can be seen from the photographs submitted by the Government, the cell was equipped with two bunk beds, mattresses, bedding, a table and what appears to be two chairs. As regards the applicant's complaints about access

to hot water and to light and air, the Court reiterates that he failed to exhaust domestic remedies in that regard (see paragraph 14 above).

21. Furthermore, it was not disputed that the applicant benefited from at least one hour a day of outdoor exercise and some organised activities (see paragraph 6 above). In the light of the photographs and measurements provided by the Government, the Court acknowledges that the outdoor yards appear to be rather modest in terms of size and equipment. The activities available in the prison also appear to have been provided on a quite sporadic basis. Nevertheless, the Court is not convinced that, on the basis of those aspects alone, the applicant was subjected to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention (contrast *Petrescu v. Portugal*, no. 23190/17, § 108, 3 December 2019, where the prison offered absolutely no activities).

22. The applicant also raised complaints regarding the periods when his personal space in cell no. 219 had amounted to more than 4 square metres. In view of the above-mentioned considerations, the Court does not find that these periods raise an issue under Article 3 either.

23. As far as the applicant alleged that he had suffered a permanent deterioration in his health, the Court notes that the expert reports submitted by him are inconclusive and that his disability card was issued in November 2023 – that is, almost one year and six months after his release – and does not contain any information about his medical conditions or the reasons why it had been issued (see *Maslák v. Slovakia (no. 2)*, no. 38321/17, § 191, 31 March 2022, and paragraph 10 above).

24. In sum, in so far as the matters complained of are within its competence, the Court considers that it has not been established that the cumulative conditions of the applicant's pre-trial detention in the period from 23 February until 27 May 2022 when he was released amounted to ill-treatment within the meaning of Article 3 of the Convention. Accordingly, this part of the application must be rejected as manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

25. The applicant also raised complaints under Articles 8 and 14 of the Convention (see paragraph 11 above).

26. The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto. Therefore, these complaints must be rejected in accordance with Article 35 § 4 of the Convention.

27. As regards the applicant's complaints raised in his observations of 5 December 2023, about other aspects of his detention such as the requirement to undergo thorough strip searches, the use of restraining measures during his examination at external medical practitioners, and the

presence of guards during those examinations, the Court notes that these complaints were not raised before the communication of the present application. They are therefore not part of the case referred to the Court and the Court need not rule on them (see *Ruža v. Latvia* (dec.), no. 33798/05, §§ 30-31, 11 May 2010, with further references).

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 March 2026.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President