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

FIRST SECTION

DECISION

Application no. 24488/13
M.B.
against Croatia

The European Court of Human Rights (First Section), sitting on 16 June 2015 as a Chamber composed of:

Isabelle Berro, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar,*

Having regard to the above application lodged on 22 March 2013,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant is a Croatian national, who was born in 1974. The President granted the applicant's request for his identity not to be disclosed to the public (Rule 47 § 4). He was represented before the Court by Ms M. Sršić, a lawyer practising in Zagreb.

2. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

A. The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. The applicant works as a police inspector in the S. Police Department (*Policijska uprava s.*)

1. The incident of 15 January 2007

5. On 15 January 2007, at around 6.00 p.m., the applicant's wife requested the assistance of the police alleging that she had been beaten by the applicant in their flat in Z.

6. Two police officers from one of the local police stations of the Z. Police Department (*Policijska uprava z.*) A.H. and M.M., intervened at the scene where they found the applicant and his wife, who had a visible nose injury. She was immediately taken to the hospital where she was diagnosed with a dislocation of septum and superficial nose hematoma.

7. The applicant was requested to undergo an alcohol intoxication test which he refused. The police officers also found in his flat several pieces of hunting firearms which were, together with the applicant's police handgun, seized from him. The applicant refused to sign the seizure records.

8. At around 6.45 p.m. the applicant was arrested and taken to the police station.

(a) The applicant's alleged ill-treatment by the police

9. According to the applicant, inside the police station he was knocked to the ground and beaten by several police officers for refusing to sign the seizure records. He was in particular ill-treated by the police officers A.H., M.M. and M.D.

10. According to a report of the police officer M.D. of 15 January 2007, at around 7.35 p.m., while he was held in the police station, the applicant started shouting and disobeying the orders to calm down. M.D. therefore approached him and twisted his arm behind his back after which he was handcuffed.

11. On the same day, at around 8.40 p.m., the applicant was examined by a doctor at the police station. The medical examination indicated signs of alcohol intoxication but did not disclose any injuries.

12. On 16 January 2007, at 2.20 p.m., the applicant was again examined by a doctor who found no injuries but indicated that the applicant had low blood sugar.

13. Following the applicant's release from detention (see paragraph 31 below), on 22 January 2007 he underwent another medical examination in a hospital in S. The examination indicated spinal and abdominal contusions which could, as alleged, relate to a beating dating back one week before.

(b) The internal police assessment of the use of force and the disciplinary proceedings against the applicant

14. On 15 January 2007 the police officer M.D. reported on the use of force against the applicant to his superiors (see paragraph 10 above).

15. On the same day the Chief of the police station accepted the report finding no irregularities in the use of force. These findings were forwarded to the Chief of the Z. Police Department.

16. On 18 January 2007 the Chief of the Z. Police Department found that the use of force against the applicant had been lawful and justified.

17. This finding was confirmed by the Internal Control Unit of the Ministry of the Interior (*Odjel za unutarnju kontrolu Ministarstva unutarnjih poslova*) on 8 March 2007.

18. On 18 May 2007 the First-instance Disciplinary Court of the Ministry of the Interior (*Odsjek prvostupanjskog disciplinskog suda Z.*; hereinafter: the "First-instance Disciplinary Court") found the applicant guilty on disciplinary charges of inappropriate behaviour and sentenced him to dismissal from service suspended for three months and a twenty percent reduction of salary in the period of two months. This decision was upheld by the Second-instance Disciplinary Court of the Ministry of the Interior (*Odsjek* drugostupanjskog *disciplinskog sudovanja*; hereinafter: the "Second-instance Disciplinary Court") on 13 July 2007.

(c) The criminal investigation into the applicant's alleged ill-treatment

19. On 18 April 2007 the applicant lodged a criminal complaint with the Z. Municipal State Attorney's Office (*Općinsko državno odvjetništvo u Z.*) against the police officers A.H., M.M. and M.D. alleging that they had ill-treated him during his arrest on 15 January 2007. In particular, he submitted that he had been knocked to the ground and then beaten. The applicant also alleged that M.Mi., an on-duty police officer in the police station at the time of the events, had attempted to cover up the ill-treatment by unlawfully instituting minor offences proceedings against him on charges of domestic violence (see paragraph 29 below).

20. On 25 May 2007 the Z. Municipal State Attorney's Office requested the Z. Police Department to conduct an investigation into the applicant's allegations.

21. The Z. Police Department submitted a report on 6 July 2007 indicating that they had interviewed the suspects and two witnesses and obtained the relevant documentation concerning the use of force against the applicant. The suspects denied any ill-treatment and one of the witnesses, also a police officer, stated that she had seen the applicant handcuffed and kneeled on the ground.

22. On 12 July 2007 the Z. Municipal State Attorney's Office rejected the applicant's criminal complaint on the grounds that there was no evidence that he had been ill-treated as alleged in his criminal complaint. The applicant was instructed that he could take over the criminal prosecution as a subsidiary prosecutor by lodging an indictment before the competent criminal court.

23. Meanwhile, the applicant submitted another criminal complaint before the Z. Municipal State Attorney's Office against the police officers M.M., A.H., S.G., P.S., M.Mi. and M.P. alleging unlawful search of his flat and their unlawful conduct in the processing of his case related to the alleged domestic violence.

24. On 31 October 2007 the Z. Municipal State Attorney's Office rejected this criminal complaint as unfounded on the grounds that there was nothing disclosing any unlawfulness in the conduct of the police officers.

25. On 11 December 2007 the applicant lodged an indictment in the Z. Municipal Criminal Court (*Općinski kazneni sud u Z.*) against the police officers A.H., M.M., M.D. and M.Mi. in connection with his alleged ill-treatment (see paragraph 22 above).

26. On 28 November 2008 the applicant sent a letter to the Z. Municipal State Attorney's Office expressing his dissatisfaction with the manner in which the circumstances of his criminal complaint had been assessed and with the decision of 12 July 2007 (see paragraph 22 above).

27. The Z. Municipal State Attorney's Office replied on 5 March 2009 indicating that all the applicant's objections should be addressed in the criminal proceedings which he had instituted as a subsidiary prosecutor.

28. On 6 April 2010 the Z. Municipal Criminal Court declared the applicant's indictment inadmissible as he had failed to inform that court of the change of his whereabouts for which reason he could not be summoned to amend the indictment in accordance with the formal requirements of the relevant domestic law. This decision was placed on the Z. Municipal Criminal Court's public notice board from which it was taken on 26 April 2010. It was thereby considered to be served on the applicant (see paragraph 59 below).

(d) The minor offences proceedings against the applicant

29. On 15 January 2007 the police instituted minor offences proceedings against the applicant in the Z. Minor Offences Court (*Prekršajni sud u Z.*) on charges of domestic violence, abusive conduct towards the police officers, improper storage of firearms and failure to report the change of his whereabouts.

30. On 16 January 2007 the Z. Minor Offences Court ordered the applicant's detention.

31. On 22 January 2007 the Z. Minor Offences Court found the applicant guilty on charges of abusive conduct towards the police officers, improper storage of firearms and failure to report the change of his whereabouts. The applicant was fined in total with 5,754 Croatian kunas (HRK) and the seized firearms were confiscated. The proceedings were discontinued in respect of the charges of domestic violence on the grounds of lack of evidence. The applicant was released from detention.

32. On 5 October 2007 the Higher Minor Offences Court (*Visoki prekršajni sud Republike Hrvatske*), acting as the court of appeal, quashed the part of the first-instance decision by which the proceedings in respect of the charges of domestic violence were discontinued and ordered a retrial, while it upheld the remainder of the first-instance decision.

33. On 16 January 2009 the resumed minor offences proceedings concerning the charges of domestic violence were discontinued on the grounds that they had become time-barred.

2. The incident of 25 May 2008

34. According to the applicant, on 25 May 2008, at around 2.30 p.m., while celebrating his wedding anniversary with friends, he was attacked and injured by A.H., the same police officer who had been involved in his alleged ill-treatment on 15 January 2007 (see paragraphs 9, 19 and 25 above). He sustained injuries to his head and arms. Thereafter he was arrested and placed in a psychiatric hospital from which he was released on 27 May 2008.

35. According to the documents submitted by the Government, on 25 May 2008, at around 2.30 p.m., the police received an anonymous call informing them that a person was lying on the ground in front of a residential building in Z. The police officers I.Z. and A.H. immediately drove to the address.

36. A report signed by the police officers I.Z. and A.H., dated 25 May 2008, indicates that upon their intervention at the scene they established that the person lying on the ground was the applicant, who was severely intoxicated. He also had visible injuries on his head and arms. Soon afterwards an emergency team joined them and they decided that the applicant should be taken to a hospital for further treatment. During the transfer to the hospital the applicant became aggressive and the police officer A.H. and one of the members of the medical team tried to calm him down. At the hospital, the applicant continued his aggressive behaviour and threatened to kill them all once released. The police officers thus used physical force and the measures of restraint to calm him down. It was decided that he should be taken to another hospital.

37. A medical report of the emergency service of 25 May 2008 indicates contusion of the applicant's head and superficial injuries on both arms.

38. A medical report prepared on the applicant's release from the hospital on 27 May 2008 indicates that the applicant sustained his injuries during a fall caused by his intoxication.

39. Following his release the applicant contacted another doctor on 28 May 2008. His report of the same date indicates that the applicant had contusions to the head, and hematomas on the right upper arm and left forearm which could have been caused by blows three days before, as alleged by the applicant.

(a) The internal police assessment of the use of force against the applicant

40. On 25 May 2008 the police officers I.Z. and A.H. reported on the use of force against the applicant to their superiors. They explained that the applicant had been aggressive during his medical treatment in the hospital and that therefore I.Z. grabbed him by the left arm and twisted it behind his back while A.H. did the same thing with his right arm. He was then handcuffed.

41. On the same day the Chief of the police station accepted the report finding no irregularities in the use of force. These findings were forwarded to the Chief of the Z. Police Department.

42. On 28 May 2008 the Chief of the Z. Police Department found that the use of force against the applicant had been lawful and justified.

(b) The minor offences proceedings against the applicant

43. On 25 May 2008 the applicant was indicted in the Z. Minor Offences Court on charges of breach of public peace and order and violent behaviour during his medical examination.

44. The applicant was questioned on the same day and he denied having breached the public peace and order. He stressed that he had only refused to undergo the medical examination to which the police officer A.H. had been forcing him.

45. At a hearing on 7 April 2009 doctor N.L., who received the applicant in the hospital on 25 May 2008 (see paragraph 36 above), stated that the applicant had arrived at the hospital with a head injury and under the influence of alcohol. He also explained that he had not seen any violent behaviour on the part of the applicant.

46. At a hearing on 23 September 2010 the Z. Minor Offences Court questioned the police officer I.Z. who could not remember any details of the event at issue.

47. On the same day the Z. Minor Offences Court acquitted the applicant on the grounds of lack of evidence of his alleged violent behaviour and breach of public peace and order.

(c) The disciplinary proceedings against the applicant

48. On 10 June 2008 the S. Police Department instituted disciplinary proceedings against the applicant in the First-instance Disciplinary Court on charges of inappropriate behaviour related to the events of 25 May 2008.

49. At a hearing on 13 November 2008 the applicant submitted that on the critical day he had been with his friends Ž.K., I.B. and M.V., drinking and celebrating his wedding anniversary. When they approached the building where he lived, they came across two police officers one of whom was A.H., who approached him and asked him whether they had settled their dispute. The applicant answered that the competent court would decide

about that and at that point A.H. pulled him by the hand as a result of which he fell to the ground and then he lost his conscience.

50. On 22 December 2008 the First-instance Disciplinary Court questioned the applicant's friends Ž.K., I.B. and M.V. and the police officers I.Z. and A.H.

51. Ž.K. stated that he had seen the applicant in front of the building talking with two police officers and that at one moment one of the police officers, without any particular reason, pulled the applicant by the hand after which he fell to the ground and hurt his head. I.B. and M.V. confirmed this version of the events.

52. In their statements the police officers I.Z. and A.H. denied any ill-treatment reiterating that they had only used force as a result of the applicant's aggressive behaviour during his medical treatment.

53. On 3 March 2009 the First-instance Disciplinary Court found the applicant guilty on charges of inappropriate behaviour and sentenced him to dismissal from service suspended for twelve months. It considered that the statements of Ž.K., I.B. and M.V. were inconsistent in particular given that an analysis of I.B.'s mobile phone at about the time of the events showed that he had been in another city. It therefore rejected the applicant's allegations that he had been ill-treated by the police officers I.Z. and A.H.

54. On 23 April 2009 the Second-instance Disciplinary Court upheld the first-instance decision.

55. The applicant then challenged the outcome of the disciplinary proceedings before the Administrative Court (*Upravni sud Republike Hrvatske*) and on 19 May 2010 the Administrative Court dismissed his complaints as ill-founded endorsing the reasoning of the disciplinary bodies.

56. The applicant further challenged the findings of the disciplinary bodies and the Administrative Court before the Constitutional Court (*Ustavni sud Republike Hrvatske*). On 13 September 2012 the Constitutional Court upheld the decisions of the lower bodies dismissing the applicant's complaints as ill-founded.

B. Relevant domestic law

1. Constitution

57. The relevant provisions of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*, Official Gazette nos. 56/1990, 135/1997, 8/1998, 113/2000, 124/2000, 28/2001, 41/2001, 55/2001, 76/2010 and 85/2010) read as follows:

Article 23

"No one shall be subjected to any form of ill-treatment ..."

2. Code of Criminal Procedure

58. The relevant provisions of the Code of Criminal Procedure (*Zakon o kaznenom postupku*, Official Gazette nos. 110/1997, 27/1998, 58/1999, 112/1999, 58/2002 and 62/2003) provided:

Article 2

"(1) Criminal proceedings shall only be instituted and conducted upon the order of a qualified prosecutor. ...

(2) In respect of criminal offences subject to public prosecution the qualified prosecutor shall be the State Attorney and in respect of criminal offences that may be prosecuted privately the qualified prosecutor shall be a private prosecutor.

(3) Unless otherwise provided by law, the State Attorney shall undertake a criminal prosecution where there is a reasonable suspicion that an identified person has committed a criminal offence subject to public prosecution and where there are no legal impediments to the prosecution of that person.

(4) Where the State Attorney finds that there are no grounds to institute or conduct criminal proceedings, the injured party may take his place as a subsidiary prosecutor under the conditions prescribed by this Act."

59. With regard to the service of the court decisions, the relevant part of the Code of Criminal Procedure provided:

Article 144

"...

(6) If a party has not reported a change of address to a court or if the party cannot be reached at the address that was previously given to the court or it is evident that he is evading receipt of a decision that is subject to appellate review other than a judgment imposing a sentence of imprisonment, the court shall put the decision on the court's public notice board. After the lapse of the term of appeal the decision shall become final."

Article 148

" ...

(2) If ... a decision cannot be served on [a subsidiary prosecutor] to his or her current address, the court shall put ... the decision on the public notice board and, after the laps of eight days from the moment when it was put [on the public notice board] it shall be considered as duly served."

60. Relevant procedures concerning the submission of and decisions on criminal complaints were provided in Articles 171 to 174, the relevant parts of which read:

Article 171

"(1) All state bodies and legal entities are obliged to report any criminal offence subject to automatic prosecution about which they have been informed or about which they have otherwise learned.

..."

Article 173

"(1) Criminal complaints shall be submitted to the competent State Attorney in writing or orally.

...

(3) If a criminal complaint was submitted before a court, the police or a State Attorney who was not competent in the matter, they shall forward the criminal complaint to the competent State Attorney."

Article 174

"(1) The State Attorney shall reject a criminal complaint by a reasoned decision if the offence in question is not an offence subject to automatic prosecution, if the prosecution is time-barred or an amnesty or pardon have been granted, or other circumstances excluding criminal liability or prosecution exist, or there is no reasonable suspicion that the suspect has committed the offence. The State Attorney shall inform the victim about his decision ... within eight days (Article 55) and if the criminal complaint was submitted by the police, he shall also inform the police.

(2) If the State Attorney is not able to ascertain the reliability of the submissions from the criminal complaint, or if he does not have sufficient information to ask for a judicial investigation, or if he has been otherwise informed that an offence has been committed, and particularly if the perpetrator is unknown, the State Attorney shall, if he is not able to do it himself, ask the police to collect all relevant information and to take other measures concerning the offence (Articles 177 and 179)."

COMPLAINT

61. The applicant complained, under Article 3 of the Convention, about his alleged ill-treatment by the police and lack of an effective investigation in that respect.

THE LAW

62. Complaining about his alleged ill-treatment by the police and lack of an effective investigation in that respect the applicant relied on Article 3 of the Convention, which reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. The parties' arguments

1. The Government

63. The Government contended that the applicant had lodged his application with the Court out of the relevant six-month time-limit and that he had not exhausted the effective domestic remedies. In particular, as regards the incident of 15 January 2007, the Government pointed out that the competent State Attorney's Office had rejected the applicant's criminal complaint on 12 July 2007. The applicant then took over the prosecution as subsidiary prosecutor but that had also ended on 6 April 2010 when the Z. Municipal Criminal Court declared his case inadmissible on formal grounds. With regard to the incident of 25 May 2008, the Government stressed that the applicant had never lodged an official criminal complaint before the competent domestic authorities and that there was nothing justifying his belated introduction of an application with the Court on 22 March 2013.

64. The Government also submitted that the applicant's alleged ill-treatment by the police did not reach the minimum level of severity to fall under Article 3 of the Convention. In any case, in the Government's view, the applicant's complaints were unfounded and unsubstantiated.

2. The applicant

65. The applicant maintained his complaints arguing in particular that the Z. Municipal Criminal Court had never properly served its decision on him since it had not taken all relevant measures to establish his exact address. He also stressed that it was on the domestic authorities to conduct an official effective investigation into his allegations of ill-treatment by the police.

B. The Court's assessment

66. The Court reiterates that the six-month time-limit provided for by Article 35 § 1 of the Convention has a number of aims. Its primary purpose is to maintain legal certainty by ensuring that cases raising issues under the Convention are examined within a reasonable time, and to prevent the authorities and other persons concerned from being kept in a state of uncertainty for a long period of time (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 39, 29 June 2012; and *El Masri v. "the former Yugoslav Republic of Macedonia"* [GC], no. 39630/09, § 135, ECHR 2012).

67. Normally, the six-month period runs from the final decision in the process of exhaustion of domestic remedies. However, where it is clear from the outset that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of. Article 35

§ 1 cannot be interpreted in a manner which would require an applicant to seize the Court of his complaint before his position in connection with the matter has been finally settled at the domestic level. Where, therefore, an applicant avails himself of an apparently existing remedy and only subsequently becomes aware of circumstances which render the remedy ineffective, the Court considers that it may be appropriate for the purposes of Article 35 § 1 to take the start of the six-month period from the date on which the applicant first became or ought to have become aware of those circumstances (see *Keenan v. the United Kingdom* (dec.), no. 27229/95, 22 May 1998, and *Edwards v. the United Kingdom* (dec.), no. 46477/99, 7 June 2001; and *Mocanu and Others v. Romania* [GC], nos. 10865/09, 45886/07 and 32431/08, §§ 259-260, ECHR 2014 (extracts)).

68. The Court has already held that, in cases concerning an investigation into ill-treatment, the obligation of diligence incumbent on applicants contains two distinct but closely linked aspects: on the one hand, the applicants must contact the domestic authorities promptly – which implies the need to apply to them with diligence, since any delay risks compromising the effectiveness of the investigation – and, on the other, they must lodge their application promptly with the Court as soon as they become aware or should have become aware that the investigation is not effective (see *Mocanu and Others*, cited above, § 264).

69. The first aspect of the duty of diligence – that is, the obligation to apply promptly to the domestic authorities – must be assessed in the light of the circumstances of the case. In this regard, the Court has held that applicants' delay in lodging a complaint is not decisive where the authorities ought to have been aware that an individual could have been subjected to ill-treatment – particularly in the case of assault which occurs in the presence of police officers – as the authorities' duty to investigate arises even in the absence of an express complaint (see *Velev v. Bulgaria*, no. 43531/08, §§ 59-60, 16 April 2013). Nevertheless, this does not relieve an applicant of his own individual obligation to undertake elementary steps and seek information from the relevant authorities about the investigation's progress or the lack thereof (see, for example, *Manukyan v. Georgia* (dec.), no. 53073/07, § 30, 9 October 2012; and *Vartic v. Romania* (dec.), no. 27631/12, § 51, 6 May 2014).

70. With regard to the second aspect of this duty of diligence – that is, the duty on the applicant to lodge an application with the Court as soon as he realises, or ought to have realised, that the investigation is not effective – the Court has stated that the issue of identifying the exact point in time that this stage occurs necessarily depends on the circumstances of the case and that it is difficult to determine it with precision (see *Nasirkhayeva v. Russia* (dec.), no. 1721/07, 31 May 2011). In particular, the Court has considered it indispensable that persons who wish to bring a complaint about the ineffectiveness or lack of an investigation before the Court do not delay

unduly in lodging their application. However, so long as there is some meaningful contact with the authorities concerning complaints and requests for information, or some indication, or realistic possibility, of progress in investigative measures, considerations of undue delay by the applicants will not generally arise (see *Mocanu and Others*, cited above, § 269).

71. In the case at issue the applicant complained before the Court on 22 March 2013 of having been subjected to ill-treatment by the police on 15 January 2007 and 25 May 2008, and of the lack of an effective investigation into these incidents.

72. As regards the applicant's alleged ill-treatment of 15 January 2007 the Court notes that the criminal investigation at the domestic level came to a conclusive end on 12 July 2007 when the Z. Municipal State Attorney's Office rejected the applicant's criminal complaint (see paragraph 22 above). Even if the Court would take into account the applicant's second criminal complaint lodged against the police officers alleging unlawful search of his flat and their unlawful conduct in processing his case of domestic violence as being capable of bearing relevance on his allegations brought before the Court, it notes that the investigation into these complaints also finally ended on 31 October 2007 (see paragraphs 23 and 24 above). It follows that in any case the applicant lodged his application with the Court more than five years following the determination of his complaints at the domestic level, which falls foul of the observance of the six-month time-limit under Article 35 § 1 of the Convention (compare *Finozhenok v. Russia* (dec.), no. 3025/06, 31 May 2011; and *Vartic*, cited above, § 52).

73. Furthermore, although it is true that after the rejection of his criminal complaint of 12 July 2007 the applicant took over the criminal prosecution as a subsidiary prosecutor in the Z. Municipal Criminal Court (see paragraph 25 above), which in general provided for an effective avenue (see, for example, *V.D. v. Croatia*, no. 15526/10, §§ 53-54, 8 November 2011; and *Butolen v. Slovenia*, no. 41356/08, § 70, 26 April 2012), the Court notes that this did not bring into play any new piece of evidence or information or any new plausible allegation triggering the authorities further investigation into the applicant's case (compare, for example, *Finozhenok*, cited above). Indeed, the only relevant action taken at this stage of the proceedings was the rejection of the applicant's case as inadmissible on the grounds of his lack of diligence in complying with the relevant formal requirements (see paragraph 28 above). In any case, the Court notes that the proceedings before the Z. Municipal Criminal Court terminated in April 2010 (see paragraph 28 above) and that the applicant brought his application with the Court almost three years later on 22 March 2013, which cannot be considered to fall within the relevant six-month time-limit under Article 35 § 1 of the Convention (compare, for example, *Elsanova v. Russia* (dec.) no. 57952/00, 15 November 2005; and *Deari and Others v. the Former Yugoslav Republic of Macedonia* (dec.), no. 54415/09, 6 March 2012).

74. It therefore follows that the applicant's complaint concerning the incident of 15 January 2007 has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

75. As regards the applicant's alleged ill-treatment of 25 May 2008, the Court firstly notes that he never lodged a criminal complaint with the competent domestic authorities concerning this event. It is true that he complained on 13 November 2008 during the disciplinary proceedings about his alleged ill-treatment (see paragraph 49 above). However, the relevant disciplinary bodies examined his allegations in detail and found that his complaints were unfounded and based on false evidence of his witnesses (see paragraphs 53-54 above). This was also upheld by the Administrative Court and the Constitutional Court (see paragraphs 55-56 above).

76. In these circumstances, it cannot be said that the applicant's allegations during his testimony in the disciplinary proceedings gave rise to credible assertions of ill-treatment so as to lead to an obligation for the disciplinary authorities to report the matter to the competent State Attorney's Office in order for it to institute an investigation into the circumstances of the applicant's case (see, by contrast, *Velev*, cited above, § 51).

77. Consequently, if the applicant considered that there were circumstances or evidence raising an arguable claim of ill-treatment, it was open for him to lodge a complaint with the competent State Attorney's Office, which could have prompted an investigation into his complaints (see paragraph 60 above). However, as already noted above, the applicant failed to lodge a criminal complaint with the competent State Attorney's Office concerning his alleged ill-treatment of 25 May 2008.

78. In these circumstances, the Court considers that the applicant did not exhaust all available domestic remedies concerning the incident of 25 May 2008. Thus his complaint should be rejected for non-exhaustion of domestic remedies in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 July 2015.

Søren Nielsen
Registrar

Isabelle Berro
President