

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

FIFTH SECTION

DECISION

Application no. 6057/10
Darko ŠINKO
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 Darko Šinko, is a Slovenian national, who was born in 1967 and lives in Ljutomer. He is represented before the Court by Odvetniška Družba Matoz O.P. D.O.O., a lawyer practising in Koper.

The Slovenian Government ("the Government") are represented by their Agent, Mrs T. Mihelič Žitko, 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 a sentence in the closed section of Dob Prison from 1 September 2002 to 30 July 2010.

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.

From 6 September 2002 to 30 July 2010 the applicant was held in a cell no 7, Block 4 which measured 59.57 square metres and held fifteen inmates (3.97 square metres of personal space available to each inmate).

According to the Government's submissions dated 22 December 2010 the prison has regularly taken care of preventive health care, educated prisoners and raised awareness of the nature of contagious diseases. For this purpose the prison has been putting at prisoners' disposal equipment for prevention of spreading contagious diseases and educational material and organised special trainings on 10 April 2008 and 14 May 2008. The applicant did not attend those trainings in spite of his alleged fear of getting infected with hepatitis C. According to the report by the prison clinic dated 7 December 2010 the applicant was not diagnosed with hepatitis C. The Government submitted that hepatitis C is not transmitted due to the alleged lack of hygiene and that for other prisoners the fact, that there are prisoners infected with hepatitis C in prison, does not in any way increase the risk of becoming infected, therefore their fear of infection is entirely unfounded. According to the Government's submissions dated 15 June 2011 possession of drugs and paraphernalia needed to use them has not been allowed in prison, violations have been punished and the prison has undertaken preventive actions. Prisoners have been informed of the fact that sharing of drug injecting paraphernalia is an activity which involves a high risk of contracting hepatitis C.

## 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 not received adequate medical treatment and that he had been afraid of getting infected with hepatitis C, due to poor hygiene in prison, the lack of information about transmission of contagious diseases and especially due to a high level of drug abuse among prisoners and sharing of drug-injecting paraphernalia. In this connection he alleged that drug use in prison has been a problem and that the possession of drug-injecting paraphernalia has not been prohibited.

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 does not find it necessary to examine the Government's objections concerning the issue of incompatibility *ratione personae*, 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 did not receive adequate medical assistance, 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 additional allegations, whereas the Government submitted that the prison authorities had carried out preventive activities and had informed prisoners about transmission of contagious diseases by organising special trainings and by giving at their disposal equipment for prevention of spreading contagious diseases and educational material. The applicant did not dispute the Government's submissions that he had not attended special trainings on 10 April 2008 or 14 May 2008. Further, the Government submitted that one can not get infected with hepatitis C due to a possible general lack of hygiene. The Government disputed the applicant's allegations and submitted that possession of drugs and paraphernalia needed to use them has not been allowed in prison, that violations have been sanctioned and that the prison has undertaken preventive actions. They also submitted that prisoners have been informed of the fact that sharing of drug injecting paraphernalia is an activity which involves a high risk of contracting hepatitis C. Again, the applicant did not dispute or at least comment on these submissions. As regards the applicant's complaint about the alleged inadequate medical treatment, the applicant did not state when and for which medical problem he had asked for a medical assistance and the prison doctor had failed to provide it. It follows that these complaints are 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 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 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<br>Deputy Registrar | Ann Power-Forde<br>President |