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Prisoners' right to healthcare and the practice of the European Court od Human Rights – What to expect?*

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Prisoners, as a marginalized and vulnerable group, must have access to healthcare. The protection of their mental and physical integrity and their human dignity depend directly on it. The right of prisoners to medical care entails numerous and complex obligations for the state. The aim of this paper is therefore to identify the main norms that bind European countries in the area of healthcare for prisoners. This study contains a systematic analysis of the relevant case law of the European Court of Human Rights. In order to ensure that prisoners' rights do not remain an abstract category, the European Court of Human Rights has specified both the nature and the scope of states' obligations in this area. The research findings show that setting binding standards in the area of healthcare is an extremely complex issue given the unequal resources and circumstances in different European countries. However, it is undisputed that the well-being of inmates must be taken into account, as well as the specific prison conditions, which have an additional negative impact on health. In particular, it should be borne in mind that prisoners should enjoy roughly the same level and quality of healthcare as any other citizen in the specific country. Authors conclude that states that do not fulfill their obligations to maintain and improve the health of prisoners violate their human rights.

KEYWORDS: prisoners, healthcare, human rights, European Court of Human Rights

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Introduction

The prison population in Europe consists of about 1.5 million people (WHO, 2019). The average number of incarcerated people per 100.000 inhabitants in Europe is 107.3, ranging from 23 in San Marino to 246 in Georgia (WHO, 2023). Mental health problems, tuberculosis and other contagious diseases are much more prevalent among prisoners than in the rest of the population (Walter *et al.*, 2021; Bosworth *et al.*, 2022; Butler *et al.*, 2022). Studies show that the prevalence of HIV, hepatitis B and hepatitis C is three to ten times higher among prisoners than in the general population (Western, 2021; Nakitanda *et al.*, 2021). Prison conditions, such as extreme overcrowding, inadequate ventilation, malnutrition, and restricted access to medical care, increase the risk of numerous infectious diseases.

The prison population is seriously affected by drug problems, which is related to the fact that in 2016 one-sixth of prisoners in Europe were incarcerated for drug-related offenses (Stover *et al.*, 2021; Tomassini *et al.*, 2024; Lukić, 2024). High suicide rates in prisons and increased mortality rates from all causes have been documented in many countries (Fazel and Baillargeon, 2011, Zhong *et al.*, 2021; Lukić, 2024). According to the literature, suicide in prison is more common in the early stages of the sentence, it is frequently carried out while the prisoner is in some form of isolation, and is commonly committed by hanging. Younger inmates who have already shown signs of alcohol and drug abuse are also more prone to engage in such self-destructive behavior (Liebling, 2003, p. 22).

Furthermore, it is undeniable that prisoners tend to come from underprivileged social groups, so they often include people with low educational status, the homeless, the unemployed and those on benefits (Ginn, 2012; Western, 2021; Vandergrift and Christopher, 2021), which might have an impact on their health. Also, incarceration may worsen existing health problems. It is likely to assume that the multifaceted deprivation, such as social, psychological, and sensory, that characterizes prisons contributes to the escalation of preexisting mental health issues as well as the emergence of new ones (Pękala-Wojciechowska *et al.*, 2021; Tadić, 2024). Likewise, correctional personnel may interpret acts resulting from mental diseases as intentional infractions of prison rules, which could lead to punishment, since they are usually not trained to recognize the warning signs of mental health disorders (Cloud *et al.*, 2023).

The situation for incarcerated women might be extremely challenging. In particular women might become invisible and their unique health issues and requirements are overlooked because they typically comprise approximately 5% of the prison population in Europe (Augsburger *et al.*, 2022, Kovačević *et al.*, 2024).

It should also be borne in mind that the general public often believes that convicted persons are treated leniently and that they do not deserve to have their needs taken care of. There are stereotypes that inmates get to enjoy leisure, comfort and recreation (Wozniak, 2014, p. 317). Also, the doctrines of penal populism have the potential to strengthen these biases. Penal populism, which has gained popularity in recent decades, relies on the notion that to preserve law and order, as well as the safety of law-abiding citizens, offenders should be punished with harsher penalties (Bell, 2022; Kovačević and Atansov, 2024).

Given the aforementioned, the right to medical care for prisoners is an extremely important issue that is insufficiently discussed. The importance of the prisoner's haeathcare is also underlined by the fact that the process of societal reintegration of ex-offenders with impaired health is made even more difficult, which increases the risk of repeated violations of the law.

The United Nations Standard Minimum Rules for the Treatment of Prisoners- Mandela Rules

Although the paper's focus is on the protection of inmates' health in compliance with European standards, it is known that The Standard Minimum Rules of the United Nations for the treatment of prisoners are also implemented in Europe as the most significant international agreement pertaining to the status and human rights of inmates. These regulations are referred to as the Mandela Rules in honor of the former South African president, who spent a total of 27 years in prison as a political prisoner. Following the initial adoption on August 30, 1955, at the United Nations Conference on the Prevention of Crime and the Treatment of Offenders in Geneva, these regulations were updated by the UN General Assembly and revised by the United Nations General Assembly on 17 December 2015 after a five-year consultation process.

Rule number 24 implies that inmates have a right to free access to the required health services, that the state has to provide them with healthcare, and that convicts should receive the same quality of healthcare as the general population. The organization of prisoner healthcare should be closely linked to the overall healthcare system. Although national penitentiary healthcare systems vary in terms of whether the prison service and justice system or a state's general health administration is in charge of healthcare, prisons usually face organizational and resource limitations that impact both access to on-site care and use of outside healthcare facilities (Spycher *et al.*, 2021).

Mandela's Rule No. 25 states that providing medical treatment for inmates requires interdisciplinary teams with an adequate number of qualified staff members functioning independently and professionally. The institution must provide mental health treatment when needed, and dental care also. While Rule No. 28 addresses the need to provide special healthcare and services for women in prison during pregnancy, labor, and postpartum period. Rule No. 27 ensures the right to emergency medical care and help. According to Rule No. 30, inmates are entitled to a prompt medical assessment in the event of suspected abuse within the prison, risk of suicide attempt, or any other health issues associated with the prison environment.

The medical professional is required to notify the prison administration of any health issues that make it difficult or impossible for the inmate to complete the sentence, as well as any decline in health related to prison conditions. Inmates also have the right to a confidential consultation with a physician and to be provided with the complete information regarding their medical condition, diagnosis, and available treatments.

European regulations and the health of prisoners

The European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4.XI.1950, abbreviated: ECHR) stipulates that everyone's right to life is protected by law (Art. 2). Furthermore, no one shall be subjected to torture or to inhuman or degrading treatment or punishment (Art. 3).

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment provides for the establishment of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (also known as: CPT). The CPT examines the treatment of persons deprived of their liberty for the sake of strengthening the protection of these persons against torture and inhuman or degrading treatment or punishment. The basic standard that the CPT advocates is that prisoners are entitled to the same level of medical care as persons living in the community. The main issues addressed by the CPT during its periodic visits to European prisons are: access to a physician, equivalence of care, patient consent and confidentiality, preventive healthcare, professional independence and competence. When it comes to preventive healthcare, the CPT emphasizes that the role of prison medical services should not be limited to the treatment of sick patients, but that they should also be entrusted with the responsibility for social and preventive medicine.

Recommendation Rec (2006)2 of the Committee of Ministers to the Member States on the European Prison Rules (adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Deputies of Ministers and revised and amended by the Committee of Ministers on 1 July 2020 at the 1380th meeting of the Deputies of Ministers) provides that prison authorities shall protect the health of all prisoners entrusted to their care and that medical care in prisons shall be organized in close liaison with the general healthcare administration of the community or nation. According to Rule No. 40, prison healthcare policy must be integrated into and compatible with national healthcare policy. In addition, the prison administration must ensure preventive measures so that prison medical services attempt to detect and treat physical or mental diseases or health problems from which prisoners may suffer. If medical care is not possible in a prison, prisoners who require specialist treatment are to be transferred to specialized facilities or civilian hospitals. Prisoners have the right to all necessary medical, surgical and psychiatric services, including those available in the community.

Case law of the European Court of Human Rights and the health of prisoners

When it comes to the healthcare for prisoners, the European Court of Human Rights (abbreviated: ECtHR) has dealt with violations of Article 3 of ECHR (prohibition of torture and inhuman and degrading treatment) and, to some extent, violations of Article 2 of ECHR, as the protection of the right to life may be directly conditioned by the prevention of ill-treatment or inappropriate treatment in the medical sector.

In relation to protecting the health and well-being of convicted persons, the ECtHR initially limited itself to serious violations of their rights and ill-treatment. Over time, the focus has shifted to the general living conditions of prisoners and the quality of healthcare, so the minimum threshold for the applicability of Art. 3 of ECHR has been gradually lowered, or, in other words, standards have been raised (Abbing, 2013).

Prisoners should enjoy the same protection as everyone, but this does not mean that they can expect the best possible healthcare in a particular state, as such protection is not provided for the general public either (Abbing, 2013). However, healthcare for prisoners should be at a level that truly enables the maintenance of their health, taking into account the special needs that life in an institution such as prison entails (Lines, 2006). States are obligated to ensure that the health and well-being of detainees are adequately protected, which implies a special responsibility for this matter, as the deprivation of liberty places prisoners in a dependent position, with limited options compared to the general public (Đukanović, 2024, p. 57). Prison is an atypical setting and the prison population is atypical of the general population, which means that it is not always appropriate or in the best interest of inmates to apply the standard of equality (Charles and Draper, 2012). For example, a prisoner on the waiting list for methadone is at greater risk than a non-prisoner of contracting blood-borne diseases while on the list. This risk is exacerbated by the high prevalence of needle sharing in prisons due to the lack of a needle exchange system (Charles and Draper, 2012).

Concerning the violation of the right to life, in the case of Mitić v. Serbia (App. no 31963/08, decision 22 January 2013, ECHR 2013-IV), the ECtHR found that the state is obliged not only not to take one's life, but also to take all measures to protect life, especially when it comes to vulnerable groups, such as prisoners. The government has special obligations in terms of preventing prisoner suicides, but the state cannot automatically be held responsible for a committed suicide unless the objective circumstances indicate that there was a relevant risk of self-harm (Mitić v. Serbia, § 49). The ECtHR concludes that for a positive obligation to arise regarding an inmate with suicidal tendencies, it must be established that the authorities knew, or ought to have known, of the existence of a real and immediate risk to the life of a specific person, and that they also failed to take measures within the scope of their powers (Mitić v. Serbia, § 46). Given that in Mitić v. Serbia the prisoner suffered from insomnia and mild anxiety, that he was regularly examined by a prison physician, that he had used the prescribed medicine, and that the circumstances did not indicate a significant risk of suicide, it cannot be considered that the suicide was conditioned by inadequate action of the authorities (Mitić v. Serbia). Also, when an incarcerated person suffers from psychological disorders and depression and when he has been provided with appropriate medical assistance, and despite it he has attempted suicide, it cannot be considered that inhumane treatment has occurred, nor that it was necessary to release the inmate (Kudla v. Poland, App. No. 30210/96, Decision 26 October 2000, §§ 94-99). Serving time in prison is inextricably linked to a certain level of discomfort, so the state is obliged to take measures to prevent increased suffering while taking into account the specific conditions and resources available in prison.

ECtHR states that authorities must ensure that a person is detained in conditions which are compatible with respect for his human dignity, and that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent to incarceration (Kudla v. Poland).

Over time, the ECtHR has changed its practice to the position that inhuman treatment does not only mean a gross violation of the prisoner's physical integrity, but that inhuman treatment can also occur when the government fails to provide the necessary treatment in a timely manner. In other words, inhumane treatment requires a minimum level of severity. Whether or not the minimum level of severity is met depends on the circumstances of the individual case, taking into account the duration of a particular treatment and the physical and mental effects, while in certain cases the prisoner's gender, age and general state of health are also taken into account (Hummatov v. Azerbaijan, App. no 9852/03 and 13413/04, Decision 29 November 2007. ECHR 2007-I. § 104, § 114). Also, the mere fact that the applicant was seen by a doctor and prescribed a certain form of treatment does not automatically lead to the conclusion that the medical assistance was adequate. Nevertheless, in addition to making sure the applicant was seen by a physician and that his complaints were taken seriously, the authorities also had to make sure that the conditions required for the prescribed therapy to be carried out had been established (Hummatov v. Azerbaijan, § 116). On the other hand, a prisoner cannot simply claim that he was not provided with adequate medical care, but must specify the exact health issue and the type of care that was lacking. Thus, in the Paladi v. Moldova case, it was established that Art. 3 of ECHR was violated, considering that during the applicant's stay in the institution, comprehensive treatment of type I diabetes (with mandatory use of insulin) and neurological disorders was not provided, although the applicant was provided with a certain form of medical care available in prison (Paladi v. Moldova. App. no 39806/06, Decision 10 March 2009, §§ 22-43, §§ 72-71).

Furthermore, it is indisputable that, in order to fully comply with the prohibition from Art. 3 of ECHR, the state is obliged to provide adequate and complete healthcare. Nevertheless, the practical definition of the term "adequate protection" is problematic. Thus, the state is required to apply due care, which does not mean that the prisoner's health must be improved or that the deterioration of health must be prevented. In the case of Goginashvili v. Georgia (App. no 47729/08, Decision 4 October 2011. ECHR 2011-III. §§ 76-78), the applicant pointed out that there came to an inhumane treatment due to the fact that, despite kidney disease and hepatitis, he was kept in prison, where a physician specialized in nephrology was not available. The ECtHR was of the opinion that in a situation where the prison administration has provided regular and periodic examinations by a nephrologist from an institution outside the prison, who did not conclude that the prisoner's health was deteriorating, there had been no violation of Art. 3 of ECHR (Goginashvili v. Georgia). Strictly speaking, even though the prisoner would benefit from constant supervision by a specialist, it is still necessary to take into account the conditions in the prison, as well as the efforts made by the prison administration to ensure that the inmate is adequately treated. Regarding the question of the applicant's conditional release on health grounds, the EC-

tHR reiterates that Art. 3 of ECHR cannot be construed as laying down a general obligation to release prisoners on health grounds. The decision to release a prisoner depends on the compatibility of a detainee's state of health with his or her continued detention, even if he is seriously ill, and the state's ability to provide appropriate medical treatment in prison (Goginashvili v. Georgia, § 79). The circumstances of the Goginashvili v. Georgia case, however, show that the prison authority has been able to cope with the applicant's serious renal disorders by having him treated in the prison hospital, thus rendering the question of his early release redundant.

On the other hand, the fact that the prisoner had been examined by a physician and that certain therapy had been applied does not automatically imply that the treatment was adequate. In other words, a timely and urgent diagnosis is necessary, as well as a comprehensive therapeutic strategy that will prevent further deterioration of health (Amirov v. Russia, App. no 51851/13, Decision 27 November 2014, ECHR 2014-I. § 84). If a prisoner was sporadically prescribed antibiotics in a state of acute tuberculosis, although there was no systematic monitoring of the general state of health, then this cannot be considered "adequate treatment". Also, adequate treatment may require periodic repetition of certain examinations and constant supervision over the treatment and the condition of the patient, so inadequate treatment exists in cases when treatment is mainly symptomatic (Hummatov v. Azerbaijan, § 109). Adequate treatment is missing when the prisoner was treated during his stay in prison, and even medically examined about 70 times, while his specific kidney problem was actually neglected over four years (Holomiov v. Moldova, App. No. 30649/05, Decision 7 November 2006, ECHR 2006-IV, §§ 117-122).

Inadequate treatment also exists when a prisoner with a disability has to rely on others to address his hygienic and other needs, given that no wheelchair is provided (Shirkhanyan v. Armenia, App. no 54547/16, Decision 22 February 2022, ECHR 2022-IV). In other words, if the state decides to imprison a person with a disability, then it must take certain measures to meet his specific needs. The ECtHR concludes that leaving a person with a serious physical disability to rely on his cellmates for assistance with using the toilet, bathing and getting dressed or undressed, contributed to the finding that the conditions of detention had amounted to degrading treatment (Shirkhanyan v. Armenia, § 152). However, when a prisoner who had no forearms was provided with mechanical prostheses, and afterward bionic ones, and when he was generally able to meet his basic needs independently, with certain help from other prisoners and employees, there was no inhumane treatment (Zarzycki v. Poland, App. no 15351/03, Decision 12 March 2013, ECHR 2013-IV). On the other hand, when a prisoner with limited mobility is transported with the help of police officers who are not adequately trained, this indicates degrading treatment (Hüseyin Yildirim v. Turkey, App. no. 2778/02, Decision 3 May 2007, ECHR 2007-IV).

Furthermore, adequate treatment implies that prisoners are provided with approximately the same level and quality of medical care as non-prisoners. However, this does not mean that prisoners can demand the best level of care and protection available in civilian clinics, given that one should take into account the limitations imposed by prison (Aleksanyan v. Russia, App. no. 46468/06, Decision 22 December 2008, ECHR

2008-I). Nevertheless, when a prisoner in an advanced stage of the disease is denied the transfer to a special AIDS clinic, even though the clinic is located not far from the penal institution, and when the treatment in the prison is insufficient, then one can speak of inhumane treatment (Aleksanyan v. Russia, §139). Also, when there was no timely application of Magnetic resonance imaging and when the prisoner did not receive systematic therapy to prevent the progression of multiple sclerosis, a violation of Art. 3 ECHR has occurred (Patrianin v. Russia, App. no. 12983/14, Decision 8 February 2014, ECHR 2014-I). On the other hand, if the state had tried to facilitate the performance of spinal surgery, but it did not happen for a long time, due to other health problems of the prisoner and delays to which the prisoner himself had contributed, there can be no question of inadequate treatment (Normantowicz v. Poland, App. no 65196/16, Decision 17 March 2022, ECHR 2022-I. §§ 89 -95).

Also, the very fact that the prisoner's health deteriorated, and even led to a fatal outcome, does not always imply a violation of human rights. Strictly speaking, the state's obligation to take care of an ill detainee is one of means, not of result. If the administration acted in a timely manner and applied all appropriate and available measures, while trying to provide adequate treatment, then the worsening of the prisoner's health does not constitute a violation of Art. 3 of ECHR.

As for respecting the views of medical experts outside the prison, the ECtHR considers that their opinion should be taken into account, especially if no expert within the institution deals with specific health issues. Thus, in the case of Wenner v. Germany (App. No 62303/13, Decision 1 September 2016, ECHR 2016-V. §§ 75-77) the ECtHR established that inhumane treatment occurred in the case when a prisoner, otherwise a long-term heroin addict, was not provided with substitution therapy, even though doctors outside the prison were of the opinion that, considering the effects of substitution and individual characteristics of the prisoner, such therapy is appropriate. Also, when it comes to prisoners suffering from drug addiction, special attention must be paid in prison to problems related to withdrawal syndrome and symptoms such as vomiting and dehydration (McGlinchey and others v. The United Kingdom, App. no 50390/99, Decision 29 April 2003, ECHR 2008-II). If there are disagreements regarding the form and type of treatment that is appropriate to apply, a violation of Art. 3 of ECHR may be implied by the denial of an additional expert examination requested by the prisoner. Generally speaking, a prisoner should be examined by an expert outside the institution, that is, an expert hired by the convict himself or his family, if there is a possibility to enable better and more appropriate treatment by doing so (Wenner v. Germany).

Complicated health problems, disability, and old age do not oblige the state to release a prisoner from serving his sentence, nor to transfer him to a civilian hospital. There are three particular elements to be considered in relation to the compatibility of prisoners's health with staying in detention: the medical condition of the prisoner, the adequacy of the medical care provided in detention, and the advisability of maintaining the detention in view of the state of health (Mouisel v. France, App. no 67263/01, Decision 14 November 2001. ECHR 2001-I. § 40). Article 3 of ECHR cannot be construed as laying down a general obligation to release detainees on health grounds. It rather imposes an obligation on the state to protect

the physical well-being of persons deprived of their liberty. However, in the circumstances when the prisoner suffers from progressive leukemia, which cannot be treated in prison, and when he periodically goes to a civilian hospital to receive chemotherapy, where he is handcuffed, there has been a violation of Art. 3 of ECHR. In this way, the dignity of the prisoner was denied and excessive suffering was inflicted on him, which is not inextricably linked to a prison sentence (Mouisel v. France). Thus, sick or elderly prisoners do not have to be released from serving their sentence due to their condition, but the prison administration must provide conditions in which their impaired health will not be further aggravated (Enea v. Italy, App. no 74912/01, Decision 17 September 2009. §§ 58-59). If the overall state of health of the prisoner and the quality of care that can be provided to him in prison require it, the release of the prisoner may be the only appropriate solution (Enea v. Italy).

When it comes to infectious diseases, prisoners have the same rights as those suffering from all other diseases. Nevertheless, prisoners should be especially protected from disease transmission. In the case of a previously existing or newly established infectious disease, appropriate tests and all necessary examinations should be provided, based on which it will be determined what the current state of health of the convict is and what kind of therapy should be applied in the future. Thus, if the prisoner is indisputably suffering from hepatitis C, which was also established by the test conducted in the prison, it cannot be considered that she was provided with adequate care simply because she was allowed to be regularly examined by a physician in prison (Testa v. Croatia. App. no 20877/04, Decision 12 July 2007, ECHR 2007-I. § 52). In other words, when a hepatologist was not available in the prison, nor the liver biopsy had been performed, such treatment was not in accordance with modern standards related to the treatment of hepatitis C, and therefore such treatment was inhumane (Testa v. Croatia). Also, the ECtHR states that in the case of Testa v. Croatia there was a violation of Article 3 of ECHR because the prisoner went to the prison medical staff more than 50 times in order to ask to be excused from daily activities, although it is generally known that one of the symptoms hepatitis C causes is exhaustion, so the prisoner should have been allowed to rest whenever her condition required it and without insisting on a medical justification. In this case, the applicant also stated that inmates were made to work for fifteen hours per day and that before every meal they were lined up in the courtyard where, regardless of the weather conditions and often for a prolonged period of time, they waited to be allowed access to the canteen, although the applicant found it increasingly difficult to bear such line-ups on account of her illness (Testa v Croatia).

On the other hand, in the case of a prisoner suffering from HIV and hepatitis C, there was no inhumane treatment, when the necessary analyses and therapy were prescribed in a timely manner in the prison, and in accordance with the standards of medical science and profession, regardless of the fact that the prisoner was not satisfied with the implemented treatment (Fedosejevs v. Latvia. No 37546/06, Decision 19 November 2013, ECHR 2013-IV, § 50). The ECtHR states that it is not its task to rule on matters lying exclusively within the field of expertise of medical specialists, but instead, in order to determine whether Article 3 has been complied with, the court focuses on determining whether the domestic authorities

provided the applicant with medical supervision capable of effectively assessing his condition and setting up an adequate course of treatment for his diseases (Fedosejevs v. Latvia, § 49). In Fedosejevs v. Latvia ECtHR considers that, given the nature and seriousness of the applicant's ailments, his condition required regular and specialized medical supervision for the monitoring of the progression rate of his diseases, timely prescription of the therapies, and timely diagnosis and treatment of possible opportunistic infections, and It can be seen from the case-file that the tests were carried out every two to six months by doctors at a specialized center for infectious diseases, so that the ECtHR cannot conclude that the national authorities did not ensure proper medical supervision of the applicant's HIV infection (§ 50).

Also, authorities are obliged to carry out testing of convicted persons for preventive reasons, in order to adequately prevent the transmission of the disease through the prison population. In the case where a convicted person was diagnosed with hepatitis C infection only after the expiration of the three-year period after the symptoms had manifested, there was a violation of Art. 3 of ECHR (Jeladze v. Georgia, App. no 1871/08, Decision 18 December 2012, ECHR 2012-III. § 44).

Those suffering from mental illnesses also enjoy the right to adequate treatment, regardless of the fact that they are in prison or a prison hospital. Thus, the ECtHR determined that it is inhumane treatment when no pre-planned and comprehensive therapy was applied to a patient with paranoid schizophrenia (Strazimiri v. Albania, App. no. 34602/16, Decision 21 January 2020, ECHR 2020-II. § 109). Although the ECtHR does not get involved in evaluating the treatment protocols that are applied in the specific country, it is evident that "therapeutic abandonment" represents a violation of Art. 3 of ECHR.

Conclusion

In modern times, it cannot be disputed that prisoners enjoy the right to humane treatment and respect for their personal dignity. The treatment that contradicts this standard is unacceptable and opposed to modern civilizational progress. As time passes and as opportunities and resources for medical assistance and improvement of health increase, the prison population must also enjoy these benefits.

However, one cannot lose sight of the fact that prisoners are incarcerated in order to serve their sentence, and that the prison environment inevitably imposes certain restrictions, as a result of which it will simply not be possible to have the same medical care as on the outside. Also, we must not forget that deprivation of liberty itself causes certain sufferings and deprivations, and that these, by the very nature of things, are associated with serving the sentence and that their effects are mostly unfavorable for health. Confinement to limited space, monotony, the same daily routines, and the inability to move freely have an undeniable negative impact on the state of health, so the authorities must constantly search for ways to mitigate the consequences caused by it.

On the other hand, just as governments are obliged to strive to provide equal conditions for the treatment of prisoners, there is also an obligation to respect the specific

health problems that characterize the prison environment. Hence, it will often not be enough to provide identical healthcare for prisoners as for the general public, but it will be necessary to design a special mode of healthcare for convicts. Therefore, in order for prisoners to be equal with other citizens in exercising their right to healthcare, we should not deny the high prevalence of substance abuse and infectious diseases in prisons. Considering the enormous prevalence of HIV, hepatitis and tuberculosis infection, states are obliged to adequately approach these pressing problems. In the absence of measures that prevent the transmission of infectious diseases, the government directly endangers the health of prisoners.

When it comes to substance abuse, the state must not turn a blind eye to the fact that there is illegal drug consumption in prisons and that prisoners are exposed to enormous health risks through it. Also, considering that addiction treatment is much more complicated in prison conditions, the government must find ways to address the specific needs of drug addicts in prison.

In addition, states must recognize the fact that prisoners are often in worse health than the rest of the population. In many cases, this is due to their poor material circumstances, homelessness and unemployment. It is therefore not uncommon for prisoners to enter prison in an already impaired state of health. The protection of their health depends on the resources available in the prison, so the state must take a proactive stance to address their problems. Otherwise, the state will contribute to a further deterioration of prisoner's health, making it more difficult for prisoners to reintegrate into normal social life.

Finally, old age and disability are conditions that prisoners face just like everyone else. Given that inmates cannot rely on the support of family, friends, and the local community, special attention must be paid to meeting their needs. If the state cannot provide humane and dignified prison conditions for the elderly and people with disabilities, then release from serving the sentence becomes the only appropriate solution.

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Pravo zatvorenika na zdravstvenu zaštitu i praksa Evropskog suda za ljudska prava

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Zatvorenici kao marginalizovana i ranjiva grupa moraju uživati pravo na zdravstvenu zaštitu. Od navedenog neposredno zavisi zaštita njihovog mentalnog i telesnog integriteta, te ljudskog dostojanstva. Pravo zatvorenika na zdravstvenu zaštitu implicira brojne i kompleksne obaveze države. Otuda je cilj rada da izdvoji ključne standarde koji obavezuju evropske države u domenu zdravstvene zaštite osuđenih. Metod koji je primenjen podrazumeva sistemsku analizu relevatnih evropskih dokumenata i slučajeva iz prakse Evropskog suda za ljudska prava. Kako prava zatvorenika ne bi ostala samo jedna apstraktna kategorija, Evropski sud za ljudska prava je konkretizovao kako vrstu, tako i obim obaveza koje države imaju u tom domenu. Rezultati istraživanja ukazuju da je postavljanje obavezujućih standarda izuzetno kompleksno pitanje, s obzirom na nejednake prilike u različitim evropskim državama. Ipak, nesporno je da se mora voditi računa o dobrobiti osuđenika, kao i o vrlo specifičnim zatvorskim uslovima koji dodatno negativno utiču na zdravlje. Posebno treba imati u vidu da zatvorenici treba da uživaju približno isti nivo i kvalitet zaštite, kao i ostali građani. Zaključujemo da one države koje ne ispunjavaju posebne obaveze u pogledu očuvanja i unapređenja zdravlja zatvorenika, zapravo povređuju njihova ljudska prava.

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