

Protecting the dignity of prisoners from the effects of the informal prisoner hierarchy



When our court – ECtHR – finds a violation of a right by the state concerned, it is sometimes considered that the state has therefore lost. But I think that is the wrong perspective, because a finding of a violation often leads to the state becoming better for its citizens or peoples living on its territory and sometimes also in its prisons.

The European Convention does
not stop at the prison gate

Khodorkovskiy and Lebedev v. Russia, 2013, § 836;

Klibisz v. Poland, 2016, § 354

Hirst v. the United Kingdom (no. 2) [GC], 2005, § 69

Art. 10 - International Covenant on Civil and Political Rights

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

Dignity

the necessity of treatment of all persons deprived of liberty with respect for their dignity and human rights

Bouyid v. Belgium [GC], 2015, §§ 89-90

Vinter and Others v. the United Kingdom [GC], 2013, § 113

Muršić v. Croatia [GC], 2016, § 99

the Government's duty to organise its prison system in such a way as to ensure respect for the dignity of prisoners, regardless of financial or logistical difficulties

Murray v. the Netherlands [GC], 2016, § 101

a particular emphasis on the principle of rehabilitation, that is, the reintegration into society of a convicted person

empathy

providing food to a prisoner compatible with his or her religious beliefs
or conviction

Jakóbski v. Poland, 2010, § 45; Vartic v. Romania, no. 2, 2013, §§ 33-36)
decision of the Czech Supreme Court 30 Cdo 4133/2019-160, from 23.
3. 2021

Premininy v. Russia, 2011, § 73

the authorities have a duty to take measures of good order in prison in order to protect prisoners from the acts of intimidation and violence from other prisoners

In cases of inter-prisoners violence, the Court has to establish whether, in the particular circumstances of a case, the authorities knew or ought to have known that a prisoner was suffering or at risk of being subjected to ill-treatment at the hands of his or her cellmates, and if so, whether the administration of the detention facility, within the limits of their official powers, took reasonable steps to eliminate those risks and to protect the prisoner from that abuse

(Pantea v. Romania, 2003)

Gjini v. Serbia, 2019, §§ 84-88 and 96-103

S.P. and Others v. Russia, 2023

D. v. Latvia, 2024

The applicant's physical and social segregation, coupled with restricted access to basic prison resources and denial of human contact, had led him to endure mental anxiety that must have exceeded the unavoidable level of suffering inherent in detention, even though he had not been subjected to physical violence. That situation which he had endured for years on account of his position in the lowest caste of prisoners in an informal hierarchy had amounted to a treatment prohibited under Article 3.

it is not enough for a state authorities not to engage in violent or humiliating behaviour against prisoners, but also to prevent violence and humiliation among prisoners.

In particular, they must prevent the existence of a kind of informal prison hierarchy that leads to the humiliation of prisoners classified in the lowest caste. It is also significant that the Court has drawn attention to the fact that sometimes there can be enormous humiliation of a human being without the use of physical violence.

The very essence of the Convention system of protection of human rights including human rights of all persons deprived of liberty is based on respect for human dignity.