

## Record Card

File number	5325/2015/VOP
Area of law	Activities of the Prison Service of the Czech Republic
Subject	bullying
Type of finding	Inquiry report – Section 18
Result of inquiry	Errors found
Relevant Czech legislation	209/1992 Coll., Article 3 345/1999 Coll., Section 35 (1), Section 35 (3)
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### Document:

Brno, 3 February 2016  
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### Report on inquiry concerning Mr L. V.

On 27 August 2015, I was approached by Mr L. V., born on xyz, who was serving imprisonment in the Jiřice Prison. He complained in his letter that he had been assaulted by fellow convicts; he had advised of this fact the prison's Department of Prevention and Complaints (hereinafter the Prevention Department) but the latter remained inactive. He further stated that he had been forced to support Roma convicts under the threat of violence. He also stated that the court had ordered him to undergo institutional protective treatment that he would like to commence while still in prison; he had applied for this at the prison authorities, without success. He also objected to the fact that the general practitioner had not referred him for a psychiatric examination.

### A – Subject of inquiry

I called on the director of the Jiřice Prison in writing to send me the Complainant's medical records for 2015; the complaint file kept by the Prevention Department; the 2015 treatment programme; more details on the conditions of the Complainant's imprisonment in relation to his medical condition and the possibility of undergoing protective treatment during imprisonment; information as to whether L. V. ever complained about other convicts' violence and documentation of the prison's response to any such notification.

The purpose of the inquiry was to verify how the prison responded to the claimed other convicts' attack on the Complainant. I also focused on availability of health care for the Complainant and marginally commented on the possibility of receiving protective treatment in a prison.

## **B – Findings of fact**

### **B.1 Attack on the Complainant**

In a statement on the relevant complaint of 17 September 2015, the director of the prison states the following: “At 6.00 a.m. on 24 June 2015, the Complainant reported to a prison guard, first sergeant Jindřich Pobuda, that on the previous day between about 7.40 p.m. and 8.00 p.m. he was attacked by about six convicts in convict group 3A2 in cell No. 303A. He identified the following convicts among the attackers: Z. V., F. D. and T. Š. Psychologist Mgr. Martin Pastierik interviewed these convicts; nevertheless, they all stated that the Complainant’s allegation concerning the attack was purpose-driven and fabricated and that there were witnesses who saw the Complainant beating himself with his fist in various regions of the head. The psychologist noted in his record that during the interview, the Complainant did not conceal his long-standing intention to get away from the prison and pressed his fist against a swelling above his right eye. Given the problematic structural personality of the convict, it is impossible to rule out that he lied in his testimony to achieve his goals. Disciplinary proceedings were not held because the convicts concerned were uncooperative in clarifying the incident and convict V. was transferred to convict group 3C2.”

It follows from the record of psychologist Mgr. Pastierik (expert opinion and psychologist’s recommendation) that the interview with convicts Z. V., F. D. and T. Š. aimed at clarifying the circumstances of the incident was held only on 29 June 2015 and the interview with the Complainant on 30 June 2015 (the Complainant reported the attack on 24 June 2015). The psychologist interviewed the Complainant also on 24 June 2015 (see below), but the interview was to ascertain the convict’s current psychological condition and interpersonal relationships in the group to which he had been transferred and was not related to the circumstances of the incident in question.

On the same day when the Complainant reported the attack (24 June 2015), he and convicts Z. V., F. D. and T. Š. were escorted to the physician to ascertain signs of physical violence. The record (notification) of physical violence from 24 June 2015 shows that the physician did not detect any injury in the above three convicts while the Complainant had several injuries: haematoma on the right eye, haematoma in the left underarm and a graze on the vertex.

The following is indicated in an entry in the Complainant’s medical records of 24 June 2015, 8.05 a.m.: “attacked by approx. 6 fellow convicts yesterday around 8.00 p.m., reports attack only this morning. Did not report yesterday, at fellow convicts’ hint. Went to bed. Felt dizzy, nauseous. Reported to the guard in the morning that he had been attacked and wanted to see the doctor. Does not feel well.” The physician diagnosed the following injuries: haematoma on the right eye; blurred sight; haematoma on the nose; laceration on the lower lip and upper lip, not bleeding; sensitive incisor on the left; haematoma on the forearm; swollen left cheek without a haematoma; haematoma on the inside of the thigh of the left leg and on the back above the knee, size about 5 x 8 cm. It also follows from the records that the Complainant was not unconscious but had memory lapses and was unable to say exactly what had happened. The physician’s diagnosis was as follows: “signs of an attack with a haematoma on the right eye, haematoma on the thigh of the left leg,

laceration on the lip, v. s. concussion. The physician wrote an order to rest in bed and sent the Complainant to the x-ray department to have his nose and skull scanned.

On the same day, after being transferred to section 3C2 (cell No. 318), the Complainant came to the educator's office to report "problematic relations" with the other convicts in the cell (record of specialised employee, educator Mgr. Novotný, of 24 June 2015).

Psychologist Mgr. Martin Pastierik interviewed the Complainant on the same day, with the objective of determining the Complainant's psychological condition and his interpersonal relations with fellow convicts after his transfer to the new convict group. The following is indicated in the psychologist's record of the interview: "In accordance with the educator's record, the convict verbalises emerging interpersonal conflicts also in the present section. Interview held in order to eliminate a potential problem situation. However, increased monitoring recommended within the standard checks of the guard service."

At 6.05 p.m. on the same day, the guard on duty in group 3C2 noticed that the Complainant had a bleeding laceration above the right eye. The Complainant was again escorted to the physician. It follows from the record (notification) of physical attack of 24 June 2015 that the Complainant had the following injuries: bleeding laceration in the haematoma above the right eye, small abrasions on the neck (about 5 cm long) and other injuries diagnosed by the physician in the morning examination. The Complainant stated in the record that "shortly before the arrival of the guard on duty, he was attacked (punches in the head and abdomen) by Roma convicts whose names are unknown to him but he can identify them. He also said he had a headache." The guard escorted the Complainant from the block and placed him in cell 101A 028 1N. After receiving first aid he was transported to Hospital X. for treatment and then hospitalised in Hospital Y. (entry in the Complainant's medical records dated 25 June 2015).

The Complainant stayed in the hospital for 5 days and on 30 June 2015 he was released with the conclusion that he was capable of serving his sentence further without any changes. The discharge report of 30 June 2015 indicates a flesh wound, signs of concussion and slightly blocked cervical spine. In terms of medication, analgesics and muscle relaxants were prescribed to the patient.[1] After returning to the prison, the Complainant was transferred to convict group 2C1.

On that day (30 June 2015), psychologist Mgr. Martin Pastierik interviewed the Complainant, recommending in his expert opinion that the matter be investigated by the Prevention Department. The Complainant informed the psychologist that he had been "attacked without provocation by 15 to 20 convicts during the inmate count" and that "the incident could be related to the previous attack in 3A1".

In his record of processing the complaint, the director of the prison stated that "no disciplinary measures were imposed in the matter because convict V. refused to cooperate in clarifying the matter and did not name the alleged aggressors."

The Prevention Department concluded that “there is no suspicion of a crime in the matter of physical attack on convict V.”. The Prevention Department further states that the incident may involve a disciplinary offence committed by other convicts. The Prevention Department recommended transferring the convicts involved in the incident “regardless of whether the description of the incident provided by convict V. is credible, because given his personality traits he can easily start a conflict with fellow convicts he does not get along with” (“Verification of the circumstances of the Complainant’s injury of 8 July 2015”).

No other physical attacks are documented in the records. However, it is obvious that the Complainant’s problems with Roma convicts continued and seem to continue to this day. In her statement of 11 September 2015, psychologist Mgr. Alena Volfová indicated that the Complainant claimed, on 18 August 2015, that the Roma convicts provoked him and stole his purchases. The Complainant explains this by his “bad reputation”.

It is indicated in the medical records of 31 July 2015 that the Complainant repeatedly attacked other convicts.

The records provided show that the Complainant’s conflicts with other convicts are not random and do not involve only some individuals, but rather the Complainant is unable to get along with other convicts in general. The documents also suggest that it is often the Complainant who provokes the conflicts. As soon as the Complainant was transferred from the admission department, he reported disagreements with the other convicts at the admission department (see the record made by psychologist Mgr. Pastierik on 19 May 2015).

For example, the following is indicated in the statement of psychologist Mgr. Alena Volfová of 11 September 2015: “Negativistic, nervous, loner, misanthropic, problems with integration, long-term interpersonal problems. Unfavourable life situation in the long-term, constant problems with people, perennially bad relationships with people around him – this triggers his aggression. All this urges him to hurt people, first others and then himself. Within evaluation of the aggressive elements present in the convict’s behaviour, it was found that the Complainant had a history of repeated episodes of violent aggression.

It is indicated in the comprehensive report on the Complainant of 16 July 2015 that there is a threat of harm to the fellow convicts as well as other persons “because he is very irritable and responds impulsively in a condition of subjective discomfort. The likelihood of harm was estimated as very high.”

In a letter of 18 January 2016, the director of the prison informed me that “in verifying the alleged attack on the above-mentioned convict, the Prevention Department employees based their considerations mainly on the written materials available, i.e. the discharge report prepared by the doctors in the Prague-Pankrác Remand Prison, the medical reports from the general practitioner at the Jiřice Prison MUDr. Robert Kunc and the Records of physical violence found (notified). The ascertained facts were found not to constitute grounds for initiating an investigation under the Code of Criminal Procedure, because a review of the camera recordings did not prove any

attack on former convict V. by other convicts and the convict's injuries were not such as to constitute a crime.”

## **B.2 Availability of health care**

The Complainant contends in his complaint that the general practitioner did not refer him for a psychiatric examination; the Complainant requests to be transferred to another department on grounds of his medical condition. He complained to the prison about these facts. In his statement of 16 October 2015, the director of the prison refers to the statement of the Jiřice Prison doctor Oleg Rambousek, according to whom the convict seeks medical help rarely and does not suffer from any condition that would be incompatible with imprisonment. It is stated in the record of processing the complaint by the prison director of 17 September 2015 that the Complainant approached psychologist Mgr. Alena Volfová with a request for psychiatric examination; the psychiatrist had the examination performed by general practitioner MUDr. Robert Kunc who arranged for examination of the Complainant in a civil medical facility. The director also indicated in his statement that, on 9 October 2015, the Complainant was to be examined by MUDr. H. in a civil medical facility. It follows from the response to the Complainant's complaint by the General Directorate of the Prison Service of the Czech Republic of 13 October 2015 that the examination did not take place and the Complainant received a new appointment for 26 October 2015. The Complainant was due to commence institutional protective treatment on 10 November 2015.

The prison director also stated that the Complainant was advised of the possibility of being placed in a specialised prison department; however, he had not applied for this placement by 17 September 2015 and, simultaneously, did not qualify for placement at a specialised department (one of the conditions being that the time remaining to be served is at least 13 months, while the Complainant's sentence was due to end on 10 November 2015).

## **B.3 Protective treatment during imprisonment**

In his complaint, the Complainant requests that the institutional protective treatment be performed as soon as possible, ideally while he was still serving his sentence.

In a statement on the complaint of 17 September 2015, the prison director stated that the Complainant's imprisonment was scheduled to end on 10 November 2015, following which he was due to commence institutional protective treatment at the Psychiatric Hospital in Havlíčkův Brod.

## **C – The Defender's assessment of the case**

### **C.1 Attack on the Complainant and violence prevention**

#### **C.1.1 First attack on the Complainant**

Arguable (defendable) claim

Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the “Convention”) prohibits torture, inhuman or degrading treatment or punishment and other forms of ill-treatment. This gives rise to certain negative and positive duties of the State. First, the State itself must refrain from any conduct that would be at variance with Article 3 of the Convention. The positive duties of the State give rise to the duty to protect a person against ill-treatment by others, and if ill-treatment has occurred, the State must effectively investigate the matter.

The State has the duty to perform effective investigation when a complainant makes an arguable (*hereinafter “defendable” for the sake of clarity - trans.*) claim concerning the existence of treatment that is at variance with Article 3 of the Convention.[2] Defendable claim means that a complainant makes claims which are not completely untrustworthy.[3] Dohnal characterises them as “sufficiently specific, constant in time, basically corresponding to the spatial arrangement at the place concerned, chronologically possible, etc.”[4] The Complainant’s claims are highly defendable because they are supported by a medical report.

In the case concerned, the Complainant reported to a prison guard, first sergeant Jindřich Pobuda, that on the previous day between about 7.40 p.m. and 8.00 p.m. he was attacked by about six convicts in convict group 3A2 in cell No. 303A. He recognised the following convicts among the attackers – Z. V., F. D. and T. Š. The Complainant’s medical report indicates numerous injuries, among which especially the haematomas in the face and on the inside of the thighs give rise to prima facie doubts about whether they could be self-inflicted by the Complainant. In addition, the medical report explicitly mentions signs of an attack on the Complainant: “signs of an attack with a haematoma on the right eye, haematoma on the thigh of the left leg, laceration on the lip, v.s. concussion”. The Complainant stated that he had been attacked, specified the time of the attack and identified the convicts who attacked him. The attack is also documented by the medical report. Thus, the Complainant submitted a defendable claim, on the basis of which the prison had a duty to perform effective investigation.

The fact that the Complainant did not report the attack to the prison immediately after the incident, but only the next day in the morning, changes nothing in the fact that he submitted a defendable claim. For example, in its *Butolen v. Slovenia* ruling, the ECHR accepted the Complainant’s claim as defendable regardless of the fact that the Complainant turned to governmental authorities more than a month after the incident.[5] In addition, it is more likely in the case at hand that the Complainant was intimidated by the convicts to not report the attack (see the entry in the medical records of 24 June 2015 regarding other convicts’ hint that he should not report the attack). It is also possible that the shock after the attack made him unable to report the incident. This assumption is supported by the entry in the medical records of 24 June 2015: “Went to bed. Felt dizzy, nauseous. Reported to the guard in the morning that he had been attacked and wanted to see the doctor. Does not feel well.”

### Effective investigation

Under Section 35 (3) of Decree No. 345/1999 Coll., promulgating the imprisonment rules, as amended (hereinafter the “Decree”), “directors of prisons have the duty to

consistently investigate without delay every report, letter or other information concerning a violation of convicts' rights". Effective investigation is such that is capable of resulting in clarification of an incident and identification and punishment of those accountable for the incident.[6] The duty to perform effective investigation does not mean that the incident will be clarified and the perpetrator identified but rather that the competent authority takes all the steps that can lead to clarification of the case. Consequently, it is a duty oriented on means rather than results. In its case law, the ECHR has defined several prerequisites for effective investigation.

- Taking all appropriate and reasonable steps to obtain evidence;
- concentrating on all investigation variants that are obviously available;[7]
- conclusions must be based on a detailed, objective and impartial analysis of all relevant circumstances[8].

In the case concerned, prison psychologist Mgr. Martin Pastierik conducted an interview after the incident, involving the Complainant and the convicts identified by him as the attackers (Z. V., F. D. and T. Š.). The convicts denied any attack on the Complainant, contending that the injuries were self-inflicted and there were "witnesses who saw the Complainant beating himself with his fist in various regions of the head". The psychologist stated that "given the problematic structural personality of the convict, it is impossible to rule out that his testimony is a manipulative means of attaining his goals". The psychologist did not find any reason for disciplinary proceedings because the "convicts concerned were uncooperative in clarifying the incident".

The prison director stated that the attack on the Complainant had been examined by the Prevention Department employees, who referred to the discharge report prepared by the doctors in the Prague-Pankrác Remand Prison, the medical reports from the general practitioner at the Jiřice Prison MUDr. Robert Kunc and the Records of physical violence found (notified). He also stated that camera recording had been checked without finding any evidence of an attack on the Complainant.

It follows from the above in clarifying the convict's injuries, that the Prevention Department employees used only documentary evidence and camera recording. No examination of the Complainant, the alleged attackers and other persons took place. A camera recording is completely irrelevant in this case because the Complainant contends an attack on the cell, and cells are not monitored by the CCTV.

Thus, the Prevention Department did not examine any witnesses and was satisfied with the description of the incident recorded by other employees in the documentary evidence. However, these employees had not investigated the incident (had no duty to do so); they had simply recorded the assertions made. This is best documented by the psychologist's interview with the Complainant and the identified attackers; instead of working with several versions of events leading to clarification of the Complainant's injury, the psychologist *a priori* refused the Complainant's version of an attack by stating that "it is impossible to rule out that he lied in his testimony to attain his goals". Also, nothing in the records suggests that the psychologist verified the assertion of

the alleged attackers that witnesses had seen the Complainant beating himself in the head.

The Prevention Department had strong indications that the Complainant actually had been attacked by other convicts. In addition, the doctor stated in the medical records that the Complainant had been attacked by other convicts. According to three of the alleged attackers, there could be several witnesses capable of helping clarify the incident; nevertheless, the Prevention Department did not interview any of them.

In view of the above, I have reached the conclusion that the prison erred by failing to perform effective investigation. The error consisting in failure to perform effective investigation of the first attack may have led to the second attack (see below).

### **C.1.2 Second attack on the Complainant**

I noted above that the Complainant suffered another injury on the same day in section 3C2 to which he had been transferred. He stated that he had been attacked again by Roma convicts, with punches in the head and abdomen. He stated that he did not know the names of the convicts but was able to identify them. The injuries were such that the Complainant had to be hospitalised.

Again, in this case, the Complainant provided a defensible claim that the prison could use as a basis for effective investigation. This defensible claim is all the more conclusive because it has an identical pattern with the previous attack and the second attack may have been a retaliation for naming the attackers from the previous incident. In contrast, the version that the Complainant had repeatedly injured himself begins to seem unlikely in the overall context.

The prison did not examine the alleged attackers. Although the Complainant did not know their names, he said he could identify them. The documents do not show that the prison invited the Complainant to identify the alleged attackers.

In view of the above, I have reached the conclusion that the prison erred also in the case of the second attack by failing to perform effective investigation.

### **C.1.3 Violence prevention**

According to Section 35 (1) and (3) of the Decree, if an employee of the Prison Service of the Czech Republic ascertains endangerment of a convict's right to protection against illegal violence, any manifestations of degradation of human dignity and insults or threats, or if a convict reports such conduct to an employee, the employee concerned has the duty to take measures necessary to avoid such conduct without delay and, simultaneously, notify the director of the prison of this fact". Pursuant to Section 3 of the cited provision, the director of the prison must take effective measures to avoid any further violation of such rights.

I noted above that Article 3 of the Convention gives rise to the State's positive obligation to protect people against ill-treatment by others.[9] This obligation is activated when there is an actual and immediate danger to the lives of specific individuals that the State authorities were or should have been aware of.[10] In



Đurđević v. Croatia, the ECHR specified that for the condition that the authorities were or should have been aware of the wrongdoing, the “allegations of violence must be specific and more detailed as to the place, time and nature of the acts complained of”.<sup>[11]</sup>

I have found nothing in the documents I received that would suggest that during the time prior to the first attack on the Complainant (23 June 2015), the Complainant was threatened by an actual and immediate danger of ill-treatment by other convicts.

The prison responded correctly to the first attack on the Complainant by transferring him from group 3A2 to group 3C2 (from the third floor of building 028 to the third floor of building 027). On the same day, however, the psychologist noted that the Complainant reported problems in the new group too. The psychologist stated the following: “Interview held in order to eliminate potential problem. However, increased monitoring recommended within the standard checks of the guard service.” The guard on duty finds new injuries on the Complainant’s body at 6.05 p.m. and the Complainant is directed to hospital. After returning from the hospital, the Complainant is transferred from group 3C2 to group 2C1 (from the third floor of building 027 to the second floor of building 027).

I cannot rule out that the prison’s error in investigating the first attack (see above) helped escalate the violence against the Complainant, because the failure to punish the alleged attackers could create a feeling of safety and impunity among other convicts, thus strengthening their determination to commit more violent acts. However, the facts of the case do not suggest that the prison was or could have been aware that the Complainant was at risk of actual and immediate violence from other convicts also in the group to which he had been transferred. Although the Complainant informed the educator and psychologist about problems emerging also in the new section, this was an isolated piece of information and not specific enough for the prison to take an action. The situation would be different if the Complainant reported specific threats of violence or were reporting escalating disagreements with other convicts in the long term.

While I have doubts as to whether the prison contributed to the violence towards the Complainant through its inactivity, the documents available do not lead me to conclude that the prison erred in preventing violence against the Complainant.

## **C.2 Availability of health care**

Within my inquiry, I concentrated on clarifying whether the prison doctor responded to the Complainant’s medical condition and, if appropriate, whether he arranged for the necessary specialised examination. I cannot determine whether the doctors’ procedure was *lege artis* – these are specialised medical issues that only a court is competent to resolve on the basis of evidence obtained from experts.

The medical records do not show that the Complainant had serious health problems that would require him to visit a doctor on a regular basis. The Complainant’s medical records are relatively brief and a large part of the entries are related to the treatment of the above-specified injuries. In terms of availability of the psychiatric examination, from the documents received I do not infer any error on the hospital’s part, also in

view of the fact that the Complainant was directed to a psychiatric examination scheduled for 26 October 2015. The documents received also do not suggest that the prison erred by failing to place the Complainant in a specialised prison department, because the Complainant did not request this.

### **C.3 Protective treatment during imprisonment**

It is up to the court to decide whether a convict undergoes protective treatment before, during or after serving imprisonment.

Section 99 (4) of Act No. 40/2009 Coll., the Code of Criminal Procedure, as amended, stipulates that “if a sentence of imprisonment has been imposed in addition to institutional protective treatment, the protective treatment shall be performed, as a rule, after commencement of the service of imprisonment in a prison. If protective treatment cannot be provided after commencement of the service of imprisonment, institutional protective treatment shall be performed in a medical facility before commencement of the service of imprisonment, if this better achieves the purpose of the treatment, otherwise in a medical facility after the completion or some other termination of the service of imprisonment.”

Section 351 of Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, stipulates that “the performance of protective treatment shall be ordered by the presiding judge to the medical facility in which the protective treatment is to be performed. However, if protective treatment was imposed in addition to a sentence of imprisonment and suitable conditions for such treatment exist in the prison, the presiding judge can order that the protective treatment be performed during the service of imprisonment.”

Under the Public Defender of Rights Act, I am not competent to interfere with the decision-making of courts, and hence I cannot make recommendations to courts as to when and how convicts should receive protective treatment.

However, I can address the conditions in a prison in general and inquire into the manner in which prisons respond to an unfavourable medical condition of a convict, especially with regard to availability of health care. I noted above that I did not find any error on the hospital's part in the provision of health care to the Complainant (see chapter C.2). I cannot determine what would be more favourable for the Complainant's health – to commence protective treatment before or during imprisonment. It is up to the courts to take account of all relevant facts in deciding on protective treatment, in particular the seriousness of the convict's disease and whether the prison can provide appropriate conditions for such a convict.

## **D – Conclusions**

Based on the above findings and considerations, I have reached the conclusion within the meaning of Section 18 (1) of the Public Defender of Rights Act that the Jiřice Prison made an error consisting in the failure to effectively investigate the attack on the Complainant.

I am sending this inquiry report to the director of the Jiřice Prison and request that he respond to the found errors within the statutory deadline of 30 days of its delivery and inform me of the remedial measures he adopted. In particular, I request information as to what steps the prison will take to ensure that the duty to ensure effective investigation is met in the future.

The report summarises my current findings, which may be reflected in my final statement.

I am also sending this inquiry report to the Complainant.

Mgr. Anna Šabatová, Ph.D.  
Public Defender of Rights

### Note

The head of Jiřice Prison stated in his statement on the report that he was in complete agreement with the cited failure to carry out an effective investigation into the attack on the complainant. According to the director of the prison, the prison employees were made aware of the duty to carry out effective investigation. The Defender regards as sufficient the assurance made by the director of the prison that in similar future cases, the prison will proceed in accordance with the requirements on effective investigation.

[1] *Wikipedia, electronic encyclopaedia. Myorelaxans [online]. Available at: <https://cs.wikipedia.org/wiki/Myorelaxans>.*

[2] *This requirement was first formulated by the European Court of Human Rights in Assenov and others v. Bulgaria of 28 October 1998. In: Kmec, J., Kosař, D., Kratochvíl, J., Bobek, M. Evropská úmluva o lidských právech. Komentář. (European Convention on Human Rights. Commentary). 1<sup>st</sup> edition. Prague: C. H. Beck 2012, 1687, p. 431.*

[3] *Kmec, J., Kosař, D., Kratochvíl, J., Bobek, M. Evropská úmluva o lidských právech. Komentář. (European Convention on Human Rights. Commentary). 1<sup>st</sup> edition. Prague: C. H. Beck 2012, 1687, p. 432.*

[4] *Kmec, J., Kosař, D., Kratochvíl, J., Bobek, M. Evropská úmluva o lidských právech. Komentář. (European Convention on Human Rights. Commentary). 1<sup>st</sup> edition. Prague: C. H. Beck 2012, 1687, p. 432.*

[5] *ECHR ruling in Butolen v. Slovenia of 26 April 2012.*

[6] *ECHR ruling in Mustafa Tunç and Fecire Tunç v. Turkey of 14 April 2015.*

[7] *ECHR ruling in Eremiášová and Pechová of 16 February 2012.*

[8] *ECHR ruling in Milić and Nikezić v. Montenegro of 28 April 2015.*

[9] *ECHR ruling in A. v. the United Kingdom of 23 September 1998.*

[10] *This is the so-called Osman test that the ECHR first defined in its ruling in Osman v. United Kingdom of 28 October 1998. The ECHR applies these criteria analogously also in relation to Article 3 of the Convention, see: EHRC ruling in 97 Members of the Gldani Congregation of Jehova's Witnesses and Four Others v. Georgia of 3 August 2007.*

[11] *EHRC ruling in Đurđević v. Croatia of 19 July 2011. In: Kmec, J., Kosař, D., Kratochvíl, J., Bobek, M. Evropská úmluva o lidských právech. Commentary. 1<sup>st</sup> edition. Prague: C. H. Beck 2012, 1687, p. 434.*