



Panteleyenko v. Ukraine

Application No. 11901/02

Country: Ukraine

Region: Europe

Year: 2007

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Health information, Mental health

Human Rights: Right to due process/fair trial, Right to privacy

Facts

In 1999 criminal charges were brought against the applicant for abuse of power and forgery of official documents. The applicant was a private notary and, according to the prosecutors' allegations, had fraudulently certified title and real-estate transactions using invalid registration forms.

As part of the investigation into these charges, the applicant's office was searched, and evidence was seized. Numerous appeals and ongoing proceedings took place over three years, and the courts ruled that there was sufficient evidence to prove the applicant committed the offense, but it was too minor to warrant further criminal proceeding.

During one of the proceedings, the applicant stated that he had never had mental health issues and produced a certificate from a psychiatric hospital supporting this claim. The applicant's claim was challenged, and the court requested his health records. A mental health hospital provided his health records regarding mental illness, and his health record (which explained that he had been treated for mental illness) was read aloud at a public hearing.

The applicant filed suit in the European Court of Human Rights, alleging a breach of his privacy, protected by Article 8 of the European Convention on Human Rights (the "Convention"), given the unlawful search of his office and the disclosure of confidential information about his mental health.

The applicant also alleged a breach of Article 6 §2 of the Convention, which provides that criminal defendants must be presumed innocent until proven guilty, and a breach of Article 13, which protects the right to an effective remedy for a violation of Convention rights.

Decision and Reasoning

The Court held that the applicant's right to privacy (Article 8) had been violated due to the search of his office and the disclosure of his mental health information in court.

In order to find a violation of Article 8 there must be (1) an interference with the right of privacy that is (2) not in accordance with the law of the country. With regards to the disclosure of health information, the Court explained that both "the storing by a public authority...and use of" information about an individual's private constitutes an interference. Both of these things occurred when the domestic court requested and received confidential information about the applicant's mental health, which was then disclosed at a public hearing. The domestic Court of Appeal had determined that the treatment of the applicant's confidential information was not in compliance with the Constitution of the Data Act 1992. As a result, a violation of Article 8 was found for the information disclosure.

The Court also held that there was a violation of Article 8 with regards to the authorities' search of the applicant's office, and the Court found violations of Article 6 §2 and Article 13 with regards to both the search of the applicant's office and the disclosure of confidential psychiatric information.

Decision Excerpts

"In the instant case, the domestic court requested and obtained from a psychiatric hospital confidential information regarding the applicant's mental state and relevant medical treatment. This information was subsequently disclosed by the judge to the parties and other persons present in the courtroom at a public

hearing. The Court finds that those details undeniably amounted to data relating to the applicant's private life and that the impugned measure led to the widening of the range of persons acquainted with the details in issue. The measures taken by the court therefore constituted an interference with the applicant's rights guaranteed under Article 8 of the Convention. Paras. 57-58.

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