



Ciorap v. Moldova

[2007] ECHR 502

Country: Moldova

Region: Europe

Year: 2007

Court: The European Court of Human Rights

Health Topics: Diet and nutrition, Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to health

Facts

The applicant, Mr. Tudor Ciorap, was incarcerated in a remand centre in Moldova after being arrested on fraud charges. Mr. Ciorap alleged that the conditions of the prison were inhuman as a result of overcrowding (e.g. 1 m² per person), poor sanitary conditions (e.g. the presence of parasitic insects), and low quantity and quality of food. In protest of the alleged conditions and maltreatment, Mr. Ciorap began a hunger-strike. After refusing to discontinue his hunger-strike, he was force-fed a number of times by prison staff.

Mr. Ciorap lodged a complaint with the Centru District Court, alleging that the manner in which he was force-fed was painful and humiliating. The Court rejected his claims on the basis that Mr. Ciorap's force-feeding, and the manner in which it was conducted, was necessary to protect his health and life. The Court of Appeal upheld the lower Court's decision, and the Supreme Court of Justice refused to hear an appeal because of a failure to pay court fees.

Mr. Ciorap subsequently lodged a complaint against the Republic of Moldova with the European Court of Human Rights. Mr. Ciorap alleged that the conditions of his detention and his force-feeding violated Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention). Article 3 states that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The main issue in this case was whether Mr. Ciorap's detention conditions and force-feeding constitute torture or inhuman or degrading treatment or punishment for the purposes of Article 3.

Decision and Reasoning

The Court held that there had been a violation of Article 3 of the Convention in respect of Mr. Ciorap's conditions of detention and the force-feeding endured by Mr. Ciorap.

The Court held that Article 3 imposes an obligation on the state to ensure that detention conditions are compatible with respect for the inmate's dignity. The Court found that the conditions of Mr. Ciorap's detention were inhuman within the meaning of Article 3 due to extreme overcrowding, unsanitary conditions, the low quantity and quality of food, and the prolonged period that the Mr. Ciorap was detained in such conditions.

The Court held that, in principle, force-feeding is not inhuman and degrading where there is sufficient evidence of a medical necessity to force-feed. However, the Court found that Mr. Ciorap's repeated force-feeding was not prompted by valid medical reason, and instead was aimed at discouraging him from continuing his protest. Thus, the authorities failed to act in Mr. Ciorap's best interest in subjecting him to force-feeding, which raises an issue under Article 3. In addition, the Court held that the manner of Mr. Ciorap's force-feeding was unnecessarily painful and humiliating, constituting torture within the meaning of Article 3.

The Court awarded Mr. Ciorap EUR 20,000 in compensation for non-pecuniary damages.

Decision Excerpts

"To fall within the scope of Article 3, ill-treatment must attain a minimum level of severity. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim" (para 63)

â€œThe State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, 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 in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistanceâ€• (para 64)

â€œThe Court reiterates that a measure which is of therapeutic necessity from the point of view of established principles of medicine cannot in principle be regarded as inhuman and degradingâ€¦The same can be said about force-feeding that is aimed at saving the life of a particular detainee who consciously refuses to take food. The Convention organs must nevertheless satisfy themselves that the medical necessity has been convincingly shown to existâ€• (para 77)

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