



Amirov v. Russia

[2014] ECHR 51857/13

Country: Russia

Region: Europe

Year: 2014

Court: The European Court of Human Rights

Health Topics: Chronic and noncommunicable diseases, Health care and health services, Infectious diseases, Medicines, Prisons

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

Facts

Amirov is a local politician who was arrested and charged in June 2013 with attempted murder, attempting to organize a terrorist attack, and related charges.

Amirov was paralyzed in 1993 and requires constant medical care. Amirov argued that he should not be detained pending trial because of his poor health, age and position in the community. The District Court rejected these arguments and ordered that he remain in prison prior to the trial due to the gravity of the charges against him and the risk that he might leave the country. Amirov's detention was extended twice pending investigations by the prosecution until June 2014. On July 9, 2014, the North-Caucasian Military Court found Amirov guilty of conspiring to organize a terrorist attack and sentenced him to ten years in prison. Amirov is in a wheelchair and suffers from a spinal cord injury, paraplegia, chronic kidney and urinary tract infections, and a number of other chronic ailments. Amirov's attorney requested that a panel of experts in neurology, urology and general medicine examine his medical records. These experts concluded that he was unable to satisfy his most basic needs without help, required constant medical care and should be placed in a specialized medical facility. At the request of the state, three other doctors examined him and his medical records and found that he was not suffering from any disease or defect that prevented him from being detained in prison. Examining doctors had not assessed a number of the major complications he suffered from. The director of the prison medical facility reported that while in prison, Amirov could not be transported to the medical unit of the detention facility because he was in a wheelchair and had to have all medical procedures performed in his cell, including insertion of catheters and enemas. It was difficult to ensure the cell was sterile, which could result in serious complications. He was not examined by a urologist even though he suffered from a serious urological disorder. The District Court, however, citing the state doctor's reports, concluded that Amirov was not suffering from an illness that warranted his release.

Amirov filed an application against the Russian Federation with the European Court of Human Rights (the "Court") under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the grounds that he was not receiving adequate medical care while in prison and that he had been held without a valid reason. On August 13, 2013, Amirov asked the Court to authorize his transfer to a specialized medical facility as an interim measure because he was not being provided with adequate medical care by a trained staff and the lack of care could ultimately result in death. The Court, under Rule 39 of the Rules of Court, asked the Russian government to have Amirov examined immediately by medical experts independent of the prison system to determine (1) whether the treatment Amirov received was adequate; (2) whether his health was compatible with detention in the prison and (3) whether Amirov's condition required hospitalization. The Russian government did not comply with this request and instead sent reports from when Amirov was admitted to the detention facility and attempted to answer the questions posed by the court themselves, without consulting independent doctors. The Court reminded the Russian government that a failure to comply with the interim measure under Rule 39 may be a breach of Article 34 of the Convention. Amirov submitted many medical reports and opinions that reiterated that Amirov needed permanent medical supervision and that his detention and current lack of appropriate treatment posed a threat to his life.

Decision and Reasoning

The Court ruled Russia's failure to comply with the Court's interim measure is a violation of the applicant's rights in the Convention system, particularly since the Court only issues them in exceptional cases where the "applicants face a genuine threat to life and life". In this case, Russia needed to have Amirov examined by

independent medical experts to answer the previously mentioned three questions. The purpose was to prevent his exposure to inhuman treatment and suffering. The reports submitted by the government did not answer any of the relevant three questions.Â Â Based on this, the Court concluded that Russia failed to comply with the interim measure in breach of Article 34 of the Convention.

The Court also ruled that Russia violated Article 3 of the Convention when Amirov was unable to receive sufficient medical attention in prison. This resulted in a deterioration of his condition, put him in a life threatening situation and caused him to experience severe physical and mental suffering. Article 3 states that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." It prohibits this treatment regardless of the circumstances or the victim's behaviour. Article 3 does not require a detainee be released on compassionate grounds, but instead, it requires the State to secure the health and well-being of the prisoner, including providing adequate medical assistance. The Russian government maintained that Amirov received adequate medical treatment while in prison. Amirov stressed that he was extremely ill and unable to care for himself and his condition had deteriorated while incarcerated. The Russian government acknowledged that the prison did not meet basic standards of hygiene and sterility but that he did receive adequate care. The Court explains that in these cases where there are conflicting accounts of facts, the Court uses the "beyond a reasonable doubt" standard but that it is not determining criminal guilt civil liability. Instead, the Court decides the state's responsibility under the Convention. In this case, Amirov is wheelchair-bound, paralyzed and suffers from multiple chronic illnesses. The Court considered the medical reports submitted by Amirov to evidence that he did not receive adequate medical attention and the Russian government would need to prove otherwise. Here, the government disregarded the interim order of the Court of have Amirov examined by a medical expert. They also denied Amirov access to medical experts of his choice. The Court found that the government has not shown that Amirov was receiving adequate medical care while in prison. The medical treatment he received was insufficient, there was no thorough evaluation of his care, the prison took no steps to address his worsening condition and he was kept in unsterile conditions. As a result of these conditions, the Court believed that Amirov experienced prolonged mental and physical suffering that has diminished his human dignity.Â Â The failure to provide medical care amounted to inhuman and degrading treatment.Â Â Accordingly, the Russian government violated Article 3.

Amirov additionally stated that his right to a trial within a reasonable time was violated under Article 5, Section 3 of the Convention. The Russian government arrested him in June 2013 and he was convicted in July 2014. The Russian court gave three reasons for not releasing him: first, that there was a strong suspicion that he committed the crimes. Second, the serious nature of the crimes at issue; and finally that if he were released he would abscond and tamper with evidence, given the sentence he faced if convicted, his personality and his power and connections as mayor. Here, Amirov had significant financial resources and powerful connections. He travelled frequently and had not surrendered his passport. The Court found that these factors provided the Russian court with adequate evidence that he would abscond if released. Next, the Court finds that Amirov was likely to have tampered with evidence and influence witnesses given his connections to politicians, law enforcements and powerful criminals. The Court found that based on this evidence and the fact that an investigation, trial and judgment were completed within a year, there was no violation of Article 5 Section 3.

The Court finally ruled that given the Article 3 violation, Amirov should be admitted to a specialized medical facility and awards Amirov 15,000 EUR for non-pecuniary damages.

Decision Excerpts

"At no point during the examinations did the doctors from hospital no. 20 assess the applicant's state of health independently from that list or evaluate whether his illnesses, separately or in combination, given their current manifestation, nature and duration, required his transfer to a hospital. Nor did they pay any attention to the quality of the medical care he had been receiving while in detention, or the conditions in which he was being detained. The reports therefore have little relevance to the implementation of the interim measure indicated by the Court to the Russian Government in the present case." (Para 72)

"The Court finds the authorities' denial of access to the applicant by those experts striking, particularly given that the issue at hand "the health of an inmate" was of such urgency and importance." (Para 74)

"Ill-treatment that attains such a minimum level of severity usually involves actual bodily injury or intense physical or mental suffering. However, even in the absence of these, where treatment humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, it may be characterised as degrading and also fall within the prohibition of Article 3." (Para 83)

