



Bures v The Czech Republic

[2012] ECHR 1819

Country: Czech Republic

Region: Europe

Year: 2012

Court: The European Court of Human Rights

Health Topics: Chronic and noncommunicable diseases, Controlled substances, Disabilities, Health care and health services, Hospitals, Informed consent, Medicines, Mental health

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to liberty and security of person

Facts

This case concerned an application against the Czech Republic lodged with the European Court of Human Rights (ECHR) under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention). The applicant alleged that he was ill-treated in a sobering-up centre in violation of Article 3 of the Convention, and detained in a psychiatric unit in violation of Article 5 of the Convention.

Applicant was diagnosed with a psycho-social disability and was using a prescribed calming psychiatric medicine called Akineton. Under the influence of the medication he went out wearing only a sweater but no trousers or underwear. Police assumed he was a drug-addict and called an ambulance. He was admitted to hospital and later the sobering up unit at the same hospital. He was said to be calm during examination with no marks to his body. He was later transferred to the intensive psychiatric care unit where on admission he had visible marks on the front of his neck, wrists and ankles probably caused by friction against textiles. Straps were used to restrain him but Applicant and the Government disagreed over the length of time that they were used for, their force and the reasons. The Government suggested he was abusive, destructive and a risk to himself and others. This was disputed.

The Applicant suffered severe paralysis of the left arm and medium to severe paralysis of the right. He began rehabilitation and was an involuntary patient at the unit for over two months. Upon release he was confused and was not able to care for himself. He voluntarily returned a week later.

Applicant alleged a violation of his right to liberty, inhuman treatment and interference with his health and physical integrity. The case concerns the lawfulness of the involuntary detention and considers the distinction between treatment and torture particular relating to restraint of patients.

Decision and Reasoning

The Court held (unanimously) that the use of restraints on the Applicant and the Government's failure to prevent the Applicant's torture and mistreatment violated Article 3 of the ECHR. The Court further held that there had been a procedural violation of Article 3 as the investigation did not protect the rights of the applicant effectively and practically.

The Court was very critical of the Czech Government and in particular its use of restraints without first trying some other method of treating or calming the patient. The Court relied on an expert report commissioned by the Police after ten months of treatment, which stated that due to compression of nerves and blood vessels, the applicant suffered severe bilateral paresis of the elbow nerves. The Court further stated that the restraining straps must have caused the applicant great physical and mental distress and restraining straps should have been used as the last resort.

Decision Excerpts

The Court considers that using restraints is a serious measure which must always be justified by preventing imminent harm to the patient or the surroundings and must be proportionate to such an aim. Mere restlessness cannot therefore justify strapping a person to a bed for almost two hours. (Para 96)

The Court further observes that even though restraints should be used as a matter of last resort, no

alternatives were tried in the applicant's case. He was restrained immediately on arrival at the sobering-up centre on account of his alleged restlessness, without any methods of calming him down having been tried. Strapping was applied as a matter of routine. It thus cannot even be said that the domestic guideline was complied with. (Para 97)

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