



Centre For Legal Resources On Behalf of Valentin Cai, mpeanu v. Romania

ECHR 222 (2014)

Country: Romania

Region: Europe

Year: 2014

Court: The European Court of Human Rights

Health Topics: Health care and health services, HIV/AIDS, Hospitals, Infectious diseases, Medicines, Mental health

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

Facts

The application was lodged by Centre for Legal Resources (CLR) on behalf of Campeanu, who was born in 1985 and died in 2004. He was abandoned at birth and was diagnosed as being HIV positive and suffered from a mental disability.

In 2003, Mr. Campeanu had to leave the centre. Two assessments of his health were carried out and two different conclusions arose in respect of his intellectual ability. The Poiana Mare Neuropsychiatric Hospital (PMH) stated that due to his HIV, the hospital could not admit him as it did not have the facilities to treat him. By the time he was admitted into a medical facility, it was found that he was suffering from malnutrition, was in an advanced state of psychiatric and physical degradation without any antiretroviral medication. He was taken to PMH for treatment. CLR went to monitor his status after one week and found him in an unheated room with a bed but no bedding and without any assistance for eating or usage of toilet. He died on the same evening.

CLR filed a criminal complaint alleging homicide by negligence. The prosecutor's office issued a decision not to prosecute. The decision was quashed and the investigation was reopened but the decision not to prosecute was upheld stating that there was no link between Mr. Campeanu's death and the act of negligence. A country commission also stated that Mr. Campeanu's rights had not been breached. The disciplinary board of the Medical Association further ruled that there were no grounds for taking disciplinary action against staff at the PMH.

Decision and Reasoning

The Court held that there had been a violation of Article 2 of the Convention. The Court stated that no guardian had been appointed despite the mental state of Mr. Campeanu and under the Mental Health Act, the authorities required the consent of Mr. Campeanu or his guardian for his transfer from one medical unit to the other, which was not done. Further, the basis of the transfer was not to provide Mr. Campeanu with appropriate treatment, care and support. He was being transferred from one unit to another and finally was transferred to PMH, which had earlier refused to admit him stating that it was not equipped to handle the complications. No proper diagnosis or evaluation was done before the transfer from one place to another took place. Further, the authorities failed to ensure appropriate treatment including antiretroviral medication.

There were several reports from international bodies that underlined the condition of patients at the PMH. 109 patients in 2003 and 2004 had died under suspicious circumstances. It was also noted that the PMH lacked human and material resources and there were huge deficiencies in quality and quantity of food and a lack of heating. Despite knowing the condition of the PMH, to admit a patient with severe medical complications is an act of negligence, which led to the death of Mr. Campeanu.

The Court also stated that the authorities failed to clarify the reasons for the death of Campeanu and identify those who were responsible for it. The Court further found a violation of Article 13 of the Convention as the State had failed to provide adequate mechanism for redressal of grievances of people with disability.

Decision Excerpts

Moreover, placing Mr Calîmpeanu's individual situation in the general context, the Court notes that at the relevant time, several dozen deaths (eighty-one in 2003 and twenty-eight at the beginning of 2004) had already been reported at the PMH; as mentioned in the CPT report of 2004, serious deficiencies were found at the relevant time in respect of the food given to the patients, and in respect of the insufficient heating and generally difficult living conditions, which had led to a gradual deterioration in the health of patients, especially those who were the most vulnerable (see paragraph 77 above). The appalling conditions at the PMH had been reported by several other international bodies, as described above (see paragraph 78); the domestic authorities were therefore fully aware of the very difficult situation in the hospital.

Despite the Government's assertions that the living conditions at the PMH were adequate (see paragraph 123 above), the Court notes that at the relevant time, the domestic authorities had acknowledged before the various international bodies the deficiencies at the PMH regarding the heating and water systems, the living and sanitary conditions and the medical assistance provided (see paragraph 78 above). (Para 141)

The Court finds that, similarly, in the present case the domestic authorities' response to the generally difficult situation at the PMH at the relevant time was inadequate, seeing that the authorities were fully aware of the fact that the lack of heating and appropriate food, and the shortage of medical staff and medical resources, including medication, had led to an increase in the number of deaths during the winter of 2003.

The Court considers that in these circumstances, it is all the more evident that by deciding to place Mr Calîmpeanu in the PMH, notwithstanding his already heightened state of vulnerability, the domestic authorities unreasonably put his life in danger. The continuous failure of the medical staff to provide Mr Calîmpeanu with appropriate care and treatment was yet another decisive factor leading to his untimely death. (Para 143)

In the present case, the Court has already established that Mr Calîmpeanu's vulnerability, coupled with the authorities' failure to implement the existing legislation and to provide him with appropriate legal support, were factors that supported the legal basis for its exceptional recognition of the locus standi of the CLR (see paragraph 112 above). Had it not been for the CLR, the case of Mr Calîmpeanu would never have been brought to the attention of the authorities, whether national or international.

However, the Court notes that the CLR's initiatives on behalf of Mr Calîmpeanu were of a more sui generis nature, rather than falling within the existing legal framework relating to the rights of mentally disabled individuals, in view of the fact that this framework was ill-suited to address the specific needs of such individuals, notably regarding the practical possibility for them to have access to any available remedy. Indeed, the Court has previously found the respondent State to be in breach of Articles 3 or 5 of the Convention on account of the lack of adequate remedies concerning people with disabilities, including their limited access to any such potential remedies (see C.B. v. Romania, Â§ 65-67; Parascineti, Â§ 34-38; and B. v. Romania, Â§ 97, all cited above). (Para 152)

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