



Mockute v. Lithuania

Application No. 66490/09

Country: Lithuania

Region: Europe

Year: 2018

Court: The European Court of Human Rights

Health Topics: Health care and health services, Health information, Hospitals, Mental health, Sexual and reproductive health

Human Rights: Freedom of religion, Right to privacy

Facts

The applicant suffered from an acute paranoid reaction disorder. She was taken to the Kaunas Psychiatric Hospital by her parents and at their request in 1992; she continued her treatment at another psychiatric hospital. The applicant had joined a religious sect before her first treatment, and her parents stated that she had become disoriented after that. The doctors at the latter institute had noted that she had joined another religious sect and her condition had worsened after joining in the sect activities. In 1994, she was treated at the same institution and was again diagnosed with paranoia. In 1996, she was again admitted and diagnosed with moderately severe depression. The applicant refused to stay in the hospital once her mental state improved. The applicant obtained a law degree and won an award to pursue postgraduate studies in the United States for two years. In 2002, the applicant was distressed due to her father's cancer and met with an accident. Her mother took her to a private hospital and she was diagnosed with post-traumatic stress disorder.

In 2003, she was working with the Ministry of Economy in Vilnius. She asked for leave from her superior and when her request was refused, she was stressed and agitated. She left her vehicle unlocked in the middle of the street, went home and was screaming from the balcony completely undressed. Her mother was also not able to communicate with her. Her sister and cousin called for an ambulance and she was taken by force to the Vilnius Psychiatric hospital. She refused to sign a consent form for admission and treatment, which her cousin signed. She was physically restrained for 40 minutes and administered medicines forcibly. Later, the doctors who examined her mentioned that she did not object to further treatment. The medical record stated that she used to attend Osho non-traditional meditation and improvement centre.

The applicant stated that during this time, she was under a very strict regime with a nurse supervising her throughout and she was not allowed to leave the ward without a nurse. Her care regime was relaxed after a while and was released after 52 days.

While the applicant was in the hospital, a television programme was aired on a national television channel, which included statements from the doctors at the hospital about the applicant. The journalist implied that the followers of Osho Centre at Vilnius participated in sexual orgies and therefore the participants had to get a medical certificate proving they were not HIV positive. The journalist also stated that the meditation practices at Osho resulted in the medical state of the applicant. The programme also featured the applicant's mother and sister identified by their first name.

The applicant wrote an open letter to the journalists stating it was not an objective portrayal and that the story had caused her immense pain. She also stated that she had been admitted to psychiatric centres before and that was completely unrelated to the meditation and several doctors had stated that her psychological problems were rooted in her childhood.

The applicant sued the Vilnius Psychiatric Hospital for deprivation of liberty, freedom of religion, right to a private life, failure to provide proper medical care and her right to information about her diagnosis and treatment. The Vilnius Regional Court granted the applicant's action. The Appellate court allowed the appeal of hospital in part. The Supreme Court refused to admit the applicant's appeal.

The applicant alleged that there has been a violation of Article 8 (Right to respect for private and family life) and Article 9 Freedom of thought, conscience and religion of the European Convention of Human Rights.

Decision and Reasoning

The Court held that there has been a violation of Article 8 of the Convention. The Court stated that disclosure of the applicant's health condition and comments about her sexual life without her consent amount to interference in her private life. The Court stated that there was no legal basis for such disclosure and hence the Court did not have to go into the question of whether the interference was necessary for the pursuance of a legitimate aim.

The Court further held that there has been a violation of Article 9 of the Convention. The Court stated that detaining the applicant unlawfully in the Psychiatric Hospital, being forcibly administered drugs and was not allowed to leave the hospital to practice her religion pointed towards interference with her right under Article 9 of the Convention. There was also a conscious effort from the hospital staff that she abandons her "fictitious" religion.

Decision Excerpts

"Having regard to those considerations, the Court finds that the disclosure by Vilnius Psychiatric Hospital psychiatrist doctor D.Š. to the Srovelis journalists of highly personal and sensitive confidential information about the applicant, obtained during her involuntary hospitalisation and treatment at that hospital, entailed an interference with the applicant's right to respect for her private life guaranteed by paragraph 1 of Article 8." (Para 99)

"Examining further, the Court turns to the applicant's twofold argument that at Vilnius Psychiatric Hospital she had been prevented from practicing her religion, firstly, because of restrictive regime therein, and, secondly, because of the doctors' unsympathetic views towards her beliefs. The Court notes that, after the applicant was placed in Vilnius Psychiatric Hospital, she was forcibly administered drugs, physically restrained, and various restrictive treatment regimes were applied to her during the fifty-two days of her stay at that institution (see paragraphs 12 and 14-18 above; on the issue of the consent to treatment, or lack of it in the applicant's case, also see paragraphs 38 and 51 above; also see point 101 of the CPT report, cited in paragraph 77 above). The Government have not suggested that the applicant could have left the hospital to practise her religion with the circle of people with whom she shared it, even though she had clearly indicated to the psychiatrists that attending the Ojas Meditation Center "brought her peace" (see paragraphs 15, 23 and 57 above; also see Kokkinakis, cited above, ¶ 31 and Sinan Isik, cited above, ¶ 38). In fact, the Vilnius Regional Court, which also relied on the CPT standards, had clearly ruled out any possibility for the applicant to leave the hospital for 52 days of her stay therein (see paragraphs 30 and 31 above). This view also appears to be corroborated by the CPT, which, having reviewed the situation at Vilnius Psychiatric Hospital in general, noted that although only few patients therein were formally considered as involuntary, in reality even "voluntary" patients were not free to leave (see point 100 of the CPT report, cited in paragraph 77 above). It is also plain from the applicant's statements in her open letter (see paragraph 22 above) and in those made to the domestic court (see paragraph 43 above), to this Court (see paragraph 109 above), as well as from her medical records and other documents (see paragraphs 15, 17, 37, 42 and 50 above), that in Vilnius Psychiatric Hospital she had to submit and subordinate her wishes to unyielding authority of the psychiatrists who were trying to "correct" the applicant so that she abandoned her "fictitious" religion, and whom she was constrained to obey, even on pain of receiving a diagnosis which would make her unemployable (on the issue of undue influence and freedom of religion see Larissis and Others v. Greece, 24 February 1998, ¶¶ 38 and 45, 51-53, Reports 1998-I; also see the extracts from the Lithuanian Constitutional Court's ruling in paragraph 65 above). The applicant therefore has demonstrated that pressure was exerted on her to change her religious beliefs and prevent her from manifesting them (see, mutatis mutandis, Bayatyan, cited above, ¶¶ 36 and 112)." (Para 123)