



Pitalev v. Russia

Application no. 34393/03

Country:

Region: Europe

Year: 2009

Court: European Court of Human Rights

Facts

The case originated as an application against the Russian Federation filed with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the Convention) by a Russian national, Mr. Sergey Gennadyevich Pitalev (hereinafter the applicant) in 2003. The primary concern is the case was about the minimum safety and hygiene standards by which a prison must operate its general prison facility and prison hospital and the failure of the government led to the violation of Article 3 of the Convention.

In 2002, the applicant was sentenced to prison for the infliction of grievous bodily harm resulting in the death of the victim. He asserted that both while living in the general prison population and as a patient in the hospital prison, he was subject to inhuman and degrading treatment which was in breach of Article 3 of the Convention, which says that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The applicant was detected with tuberculosis in his right lung due to the unhygienic, overcrowded prison cell and bad quality food. The government argued against it and said that the applicant was provided with facilities including clean bed, hygienic atmosphere, etc. For the tuberculosis treatment, he was shifted to a prison hospital. In the hospital, the applicant was treated with ethambutol, isoniazid, and rifampicin. In the IK-3 he was given a stronger analog of rifampicin “ myrin-p. According to the applicant, no liver protective medication, which should normally accompany such a strong anti-tuberculosis treatment, which was offered to him. Additionally, an inguinal hernia was detected, but the required operation was never conducted. This lack of necessary treatment led to skin disease and poor eyesight. The applicant asserted that in addition to the above the living conditions in the prison hospital were below Article 3 standards, including issues with hygiene, lack of lighting, and lack of water. The government denied his allegations, asserting the minimum standards of Article 3 were met. The government submitted medical records which confirmed that the applicant had been regularly examined, was provided with all the necessary medication and that an operation was recommended after a full recovery from tuberculosis had been made.

Decision and Reasoning

The court admitted the compliant and rejected government’s arguments: (1) with respect to non-exhaustion of domestic remedies as it held that the government had failed to demonstrate what redress could have been afforded to the applicants by a prosecutor or a court, (2) with respect to the request for restriction of the complaint for six months, the court held that owing to the concept of a “continuous situation”, the division of the situation into separate periods based on the date when the application cannot be accepted.

The Court examined the alleged violations of Article 3 on account of the conditions of the applicant’s detention in two distinct prison facilities. Firstly with respect to applicants alleged treatment while living in the general prison facility. Secondly with respect to applicants alleged treatment while living at the prison hospital as a medical patient. With regard to the first, the Court held that it could not be established beyond a reasonable doubt that the ventilation, lighting, and heating in the general prison were unacceptable from the standpoint of Article 3 as it was shown from the records that the domestic standard of two square meters of personal space was met. It reasoned that the applicant did not demonstrate sufficient evidence for it to conclude that there had been a violation of Article 3 of the Convention on account of the conditions of detention while he was

living in the general prison facility.

With regard to the applicant's stay at the prison hospital, the Court held that there had been a violation of Article 3 of the Convention and that the conditions were inhuman within the meaning of this provision. The Court based its reasoning on the following living conditions, (1) that the living arrangement left inmates with almost no free space to move, (2) the applicant's situation was gravely exacerbated by the fact that he had tuberculosis and thus required sufficient circulation of clean air, (3) he was kept for twenty-three hours a day in cramped conditions with other sick detainees; and (4) the domestic standards for prison living space of 5 sq. m. per detainee were not met. The Court held that because the applicant was being treated for tuberculosis and was required to live, sleep, and use the toilet in an unreasonably limited space with other sick inmates and with lack of access to fresh air. Such treatment was sufficient to cause distress or hardship which exceeded the reasonable level of suffering inherent in prison living. Thus, the applicant's feelings of fear, anguish, and inferiority were reasonable and his condition was in fact humiliating.

The court rejected the applicant's claim with respect to inadequate treatment. The court noted that the unavailability of necessary medicines may raise an issue under Article 3 only if it had negative effects on the applicant's state of health which was not the situation in the present case and hence it concluded that the claims were manifestly ill-founded. The court awarded EUR 2,000 as non-pecuniary damage to the applicant.

Decision Excerpts

“The very fact that the sick applicant was obliged to live, sleep and use the toilet in particularly limited space with other sick inmates, combined with the lack of access to fresh air, was sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.” Para 48.

“The Court observes that, according to its constant case-law, measures depriving a person of his liberty may often involve an inevitable element of suffering or humiliation. Nevertheless, it is incumbent on the State to 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.” Para 37.

“The Court accepts that the medical assistance available in prison hospitals may not always be of the same standard as in the best medical institutions for the general public. Nevertheless, the State must ensure that the health and well-being of detainees are adequately secured by, among other things, providing them with the requisite medical assistance. The authorities must also ensure that the diagnoses and care are prompt and accurate, and that was necessitated by the nature of a medical condition, supervision is regular and systematic and involves a comprehensive therapeutic strategy aimed at curing the detainee's diseases or preventing their aggravation.” Para 54.