



Sykora v. Czech Republic

Application No. 23419/07; [2012] ECHR 1960

Country: Czech Republic

Region: Europe

Year: 2012

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Informed consent, Mental health

Human Rights: Right to bodily integrity, Right to due process/fair trial, Right to liberty and security of person, Right to privacy

Facts

Milan Sykora, a Czech national, suffered from a psycho-social disability and did not take his medication because he claimed it negatively affected his eyesight. In November 2000 the Brno Municipal Court deprived Sykora of his capacity to make legal decisions after he failed to collect his pension for four years. The decision was made based on the testimony of Dr. H, who had concluded in 1998 that Sykora suffered from paranoid schizophrenia. Sykora was not summoned to appear at the hearing, was represented by a court officer who had never met Sykora and was not made aware of the judgment at the time. In August 2001, after the Sykora became aware of the judgment and appealed it, the Brno Regional Court quashed the decision and remitted the case to the Municipal Court. In November 2004 the Municipal Court deprived Sykora of his legal capacity again, largely based on the testimony of Dr. H, who had not re-examined Sykora since 1998. Once again Sykora did not appear at the trial and he was not aware of the judgment until June 2006.

In November 2005, Sykora was admitted to a psychiatric hospital following a verbal, non-violent argument with his partner. The hospital received the consent of an employee of City of Brno, who was then Sykora's legal guardian but had not discussed the detention with Sykora prior to giving his consent. The hospital continued to detain and medicate Sykora against his will until he sought the help of the Mental Disability Advocacy Centre who successfully argued for his release. Sykora claimed that his health deteriorated as a result of his compulsory detention and forced medication. In total, he was detained for twenty days.

Following his release, in November 2006, Sykora filed to have his detention reviewed by the Municipal Court, but these proceedings were consistently delayed. In 2012, after the case bounced around between several courts, the Constitutional Court dismissed the review because Sykora's detention had been consented to by his guardian and because he was no longer being detained.

In November 2007, the Municipal Court decided not to deprive Sykora of his legal capacity; in total, Sykora had been deprived of his legal capacity for two years and six months. Sykora brought an action for damages against the state for violating his procedural rights in the incapacitation proceedings, but was unsuccessful at the District Court, the Municipal Court, and the Constitutional Court.

Sykora subsequently brought a claim before the European Court of Human Rights alleging that the Government of the Czech Republic violated Articles 5 (rights to liberty and security) and 8 (right to respect for private and family life) of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by unlawfully removing his legal capacity and detaining him in a psychiatric facility, thereby depriving him of his right to liberty and private life.

Decision and Reasoning

The Court found that the Government violated Article 5.1 of the Convention (right to liberty) because Sykora's detention was based on a procedure that did not provide sufficient guarantees against arbitrariness. The Court held that detention must be deemed necessary and non-arbitrary to be justified according to the Convention. The Court found that the detention in this case was based on the consent of a guardian who had never even consulted Sykora (nor explained why it would have been impossible to consult with Sykora prior to giving consent to the detention) which was not a sufficient safeguard against arbitrariness. As there was no judicial review of the guardian's decision or other procedural safeguards in place, such detention violated Article 5.1 of the Convention.

The Court found that the Government violated Article 5.4 of the Convention (right to judicial review of detention) because, during the twenty days when Sykora was detained, there were no opportunities for domestic courts to conduct a review of the lawfulness of his detention since he was considered to have been detained voluntarily with the consent of his guardian.

The Court also found that the Government violated Article 8 of the Convention (right to respect for private and family life) because the removal of Sykora's legal capacity was unlawful and interfered with his private and family life. Although the Court noted that authorities enjoy a wide margin of appreciation in determining someone's mental capacity, such determination must fair with appropriate procedural guarantees. The Court found that the proceedings that deprived Sykora of his legal capacity were deficient because he was not given the opportunity to appear at the hearing and his representative had never met him, the medical evidence that was used was insufficient because it was based on an examination that was not recent and therefore unreliable and no effort was made to inform him of the judgment, thus depriving him of the opportunity to launch an appeal immediately. However, the Court found that Sykora's Article 8 complaint regarding forced medication was inadmissible as Sykora had not instituted proceedings against the hospital once the decision to deprive him of his legal capacity had been quashed, and therefore he had not yet exhausted domestic remedies with respect to this claim.

The Court awarded Sykora pecuniary damages of EUR 20,000 for the anguish and distress he suffered as a result of his unlawful detention and deprivation of his legal capacity.

Decision Excerpts

"The Court reiterates that in order to comply with Article 5 § 1, the detention in issue must first of all be "lawful", including the observance of a procedure prescribed by law; in this respect the Convention refers back essentially to national law and lays down the obligation to conform to the substantive and procedural rules thereof. Moreover, any deprivation of liberty should be consistent with the purpose of Article 5, namely to protect individuals from arbitrariness. Furthermore, the detention of an individual is such a serious measure that it is only justified where other, less severe measures have been considered and found to be insufficient to safeguard the individual or public interest which might require that the person concerned be detained. That means that it does not suffice that the deprivation of liberty is in conformity with national law; it must also be necessary in the circumstances." Paragraph 62

"The Convention requirement for an act of deprivation of liberty to be amenable to independent judicial scrutiny is of fundamental importance in the context of the underlying purpose of Article 5 of the Convention to provide safeguards against arbitrariness; in the case of mental illness, special procedural safeguards may be called for in order to protect the interest of persons who, on account of their mental illness, are not fully capable of acting for themselves." Paragraph 82

"In such a complex matter as determining somebody's mental capacity the authorities should enjoy a wide margin of appreciation. This is mostly explained by the fact that the national authorities have the benefit of direct contact with those concerned, and are therefore particularly well placed to determine such issues. However, whilst Article 8 of the Convention contains no explicit procedural requirements, the decision-making process involved in measures of interference must be fair and such as to ensure due respect of the interests safeguarded by Article 8. The extent of the State's margin of appreciation thus depends on the quality of the decision-making process. If the procedure was seriously deficient in some respect, the conclusions of the domestic authorities are more open to criticism....Any deprivation or limitation of legal capacity must be based on sufficiently reliable and conclusive evidence." Paragraphs 102 - 103