



Storck v. Germany

Storck v. F.R.G., App. No. 61603/00, 43 Eur. H.R. Rep. 96 (2005).

Country: Germany

Region: Europe

Year: 2005

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

Health Topics: Disabilities, Health care and health services, Infectious diseases, Informed consent, Medical malpractice, Mental health

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

Facts

Applicant, a German national, alleged violations under Article 5 (right to liberty and security of person), Article 6 Å§ 1 (right to a fair hearing) and Article 8 (right to respect for his private and family life) of the European Convention on Human Rights concerning her involuntary placement and medical treatment in a private clinic and a university clinic.

Applicant was placed in a locked ward of a private psychiatric clinic for almost two years, 1977-79, without her consent and without judicial authorization. Applicant tried to flee from the clinic repeatedly, but failed. Then, after receiving medical treatment for schizophrenia at the clinic, she developed a post-poliomyelitis syndrome. In 1981, applicant received treatment again at the university clinic. Applicant brought several unsuccessful proceedings for compensation for damages caused by her stay at the private clinic and medical treatment she received at both the private and university clinics.

Decision and Reasoning

The Court held that with regard to confinement in the private clinic from 1977 to 1979, the state had violated Article 8; applicant had not consented to being confined and there had been no judicial authorization for her stay at the private clinic. Therefore, applicant's detention had not been lawful. The State also violated its existing positive obligation to protect applicant against liberty interferences by private individuals.

However, as to the confinement in 1981, the Court held that evidence did not support the same conclusion. Consequently, there has been no violation of her liberty or private family life under Articles, 5 and 8 within that period of time.

Concerning the treatment applicant received at the university clinic, the Court concluded that Article 8 had not been violated because because of a lack of evidence to show that the treatment was without her consent. Also the national courts had reasonably found, with the help of medical experts, that the applicant had neither intentionally nor negligently been subjected to inappropriate medical treatment.

Decision Excerpts

"168. The Court reiterates that even a minor interference with the physical integrity of an individual must be regarded as an interference with the right to respect for private life under Article 8 , if it is carried out against the individual's will. It notes that there is no indication that the applicant had been treated without her consent in the Mainz university clinic. Even assuming that she could only be considered to have agreed to being treated with due diligence and according to the medical standards at the relevant time, the court notes that the national courts had reasonably found with the help of medical experts, that the applicant had neither intentionally nor negligently been subjected to wrong medical treatment. Consequently, there has been no interference with the applicant's right to respect for her private life within the meaning of Article 8." Page 38.