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Prisoners' health rights

(See also Detention conditions and treatment of prisoners)

Medical assistance for mentally disabled prisoners

Kudła v. Poland (30210/96)

26.10.2000 (Grand Chamber)

Andrzej Kudła spent almost four years in detention on remand. During this time, he suffered from chronic depression and twice tried to commit suicide. He complained in particular that he was not given adequate psychiatric treatment in detention, relying on Article 3 of the European Convention on Human Rights (prohibition of torture and inhuman or degrading treatment).

The Court found that the suicide attempts could not be linked to any discernible shortcoming on the part of the authorities and it observed that Mr Kudła had been examined by specialist doctors and frequently received psychiatric assistance. While the Court did thus not find a violation of Article 3, it underlined that under this Article the State had to ensure that the manner of detention did not subject a prisoner to hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that his health and well-being were adequately secured by providing him with the requisite medical assistance.

Dybeku v. Albania (41153/06)

18.12.2007 (Chamber)

Ilir Dybeku had been suffering from chronic paranoid schizophrenia, for which he was treated in various psychiatric hospitals, for a number of years when he was sentenced to life imprisonment for murder and illegal possession of explosives in 2003. He was placed in a normal prison, where he shared cells with inmates who were in good health and where he was treated as an ordinary prisoner. His father and lawyer complained to the authorities that the prison hospital administration had failed to prescribe adequate medical treatment and that Mr Dybeku's health had deteriorated as a result. Their complaints were dismissed.

The Court found a violation of Article 3, holding in particular that the nature of Mr Dybeku's psychological condition made him more vulnerable than the average detainee and that his detention might have exacerbated his feelings of distress, anguish and fear. The fact that the Albanian Government admitted that he had been treated like the other inmates, notwithstanding his particular state of health, showed a failure to comply with the Council of Europe's recommendations on dealing with prisoners with mental illnesses.

Renolde v. France (application no. 5608/05)

16.10.2008 (Chamber)

While in pre-trial detention in 2000 on charges of having assaulted his former partner and their daughter, Joselito Renolde committed suicide. A few weeks before, he had already tried suicide. He had subsequently been diagnosed with an acute delirious

episode and had mentioned a history of psychiatric problems. He had been prescribed antipsychotic medication of which he was handed several days' supplies twice a week without supervision. A few days after his suicide attempt, following an assault on a warder, the disciplinary board had ordered Mr Renolde to serve 45 days in a punishment cell.

The Court found a violation of Article 2 (right to life). Despite the suicide attempt and the diagnosis of Mr Renolde's mental condition, there had not been a discussion of whether he should be admitted to a psychiatric institution. Further, according to experts assessing the case, poor medicine compliance might have contributed to Mr Renolde's committing suicide in a state of delirium. The Court concluded that the lack of supervision of his daily taking of medication had played a part in his death.

The Court further unanimously found a violation of Article 3. It was struck by the fact that Mr Renolde had been given the maximum disciplinary penalty, entailing the prohibition of all visits and all contact with other prisoners, with no consideration for his mental state. The Court underlined that prisoners known to be suffering from serious mental disturbances and to pose a suicide risk required special measures geared to their condition.

Raffray Taddei v. France (36435/07)

21.12.2010 (Chamber)

Detained in Rennes and suffering from a number of medical conditions including anorexia, Ms Raffray Taddei complained about her continuing detention and about a failure to provide her with appropriate treatment for her health problems.

The Court found a violation of Article 3, holding in particular that the failure by the authorities to sufficiently take into account the need for specialised care in an adapted facility, as required by Ms Raffray Taddei's state of health, combined with her transfers, despite her particular vulnerability and with the prolonged uncertainty following her requests for deferment, were capable of causing her distress that exceeded the unavoidable level of suffering inherent in detention.

M.S. v. the United Kingdom (24527/08)

03.05.2012

The case concerned the detention of a mentally-ill man in police custody for more than three days.

The Court found a violation of Article 3. It held in particular that the applicant's prolonged detention without appropriate psychiatric treatment had diminished his human dignity, although there had been no intentional neglect on the part of the police.

Medical assistance for prisoners with a serious physical illness

Khudobin v. Russia (59696/00)

26.10.2006 (Chamber)

Being HIV positive and suffering from several chronic diseases, including epilepsy, viral hepatitis and various mental illnesses, the applicant contracted a number of serious diseases during his detention on remand of more than one year, including measles, bronchitis and acute pneumonia. Owing to his condition, he was often placed in a hospital unit for patients with contagious diseases. However, a request by his father for a thorough medical examination was refused.

The Court found that the applicant had not been given the medical assistance he needed, in violation of Article 3. Even while in the prison hospital, he had suffered from the physical effects of his medical conditions. Given that the applicant was HIV positive and suffered from a serious mental disorder, the absence of qualified and timely medical assistance and the refusal to allow an independent medical examination must have created a strong feeling of insecurity.

While the Court accepted that the medical assistance available in prison hospitals might not always be at the same level as in the best medical institutions for the general public,

it underlined that the State had to ensure that the health and well-being of detainees were adequately secured by providing them with the requisite medical assistance.

Mouisel v. France (67263/01)

14.11.2002 (Chamber)

Serving a prison sentence of fifteen years, Jean Mouisel was diagnosed with lymphatic leukaemia in 1999. When his condition worsened, he underwent chemotherapy sessions in a hospital at daytime. He was put in chains during the transport to the hospital and claimed that during the chemotherapy sessions his feet were chained and one of his wrists attached to the bed. He decided to stop the treatment in 2000, complaining of these conditions and of the guards' aggressive behaviour towards him. He was subsequently transferred to another prison in order to be closer to the hospital and in 2001 released on licence subject to an obligation to undergo medical treatment or care.

The Court found that there had been a violation of Article 3 in respect of the period until Mr Mouisel's release on licence, holding in particular that although his condition had become increasingly incompatible with his continued detention as his illness progressed, the prison authorities had failed to take any special measures. In view of his condition, the fact that he had been admitted to hospital, the nature of the treatment, the Court considered that handcuffing Mr Mouisel had been disproportionate to the security risk posed. This treatment further fell foul of the recommendations of the European Committee for the Prevention of Torture (CPT) regarding the conditions in which prisoners are transferred and medically examined.

Xiros v. Greece (1033/07)

09.09.2010 (Chamber)

Serving a prison sentence for participation in the activities of a terrorist organisation, Savvas Xiros suffers from the consequences of a serious injury, caused by the explosion of a bomb in his hands while he was preparing an attack in 2002. In particular, he has serious health problems affecting his sight, hearing and movements. As his vision had worsened despite having undergone a number of eye operations, he applied for a stay of execution of his sentence in 2006 so that he could undergo hospital treatment in a specialist eye clinic, in line with the recommendations of three of the four specialists who examined him. This application was rejected by the domestic court.

The Court found a violation of Article 3 on account of the shortcomings in the treatment provided for Mr Xiros' eyesight problems. While it was not the Court's task to rule in the abstract how the domestic court should have dealt with the application for external hospital treatment, it would have been preferable for that court to request an additional expert report on the controversial question whether this treatment was necessary instead of itself taking a decision on an essentially medical issue.

Those considerations were lent further weight by the fact that the medical care likely to be provided in prison where Mr Xiros was detained fell some way short of what would be available in a hospital, according to various reports, including one from the CPT.

Vasyukov v. Russia (2974/05)

05.04.2011 (Chamber)

Mr Vasyukov alleged that he had contracted tuberculosis during his detention and that, because the diagnosis of his illness had been delayed, he had been denied adequate medical care.

The Court found a violation of Article 3 on account of the authorities' failure to duly diagnose him with tuberculosis and comply with their responsibility to ensure adequate medical assistance for him during his detention in a correctional colony before September 2004.

Logvinenko v. Ukraine

14.10.2011 (Chamber)

Mr Logvinenko is serving a life prison sentence and is HIV-positive. He also suffers from chronic tuberculosis, bronchitis, hepatitis and pneumonia. He complained that he was

never treated for HIV and never underwent specific blood tests crucial for determining whether HIV therapy needed to be provided without delay.

The Court concluded that Mr Logvinenko had suffered inhuman or degrading treatment as a result of the absence of comprehensive medical supervision and treatment for tuberculosis and HIV, and unsuitable prison conditions. Violation of Article 3 (prohibition of inhuman or degrading treatment).

A.B. v. Russia

14.10.2011 (Chamber)

The applicant, HIV-positive and in prison, was placed in solitary confinement in October 2004, in a prison cell in which the winter temperature dropped to 7-10°C. He never received antiviral treatment for HIV, neither was he admitted to hospital, due to a lack of places. The prison cells where he was kept were in a deplorable state, without ventilation, heating, or hot water, medical staff rarely visited and provided no medication when they did.

Given that for over six years A.B.'s condition had not been monitored, the Court found deeply disturbing the Government's conclusion that it had been unnecessary to administer antiretroviral treatment to him. The Court found a violation of Article 3 (prohibition of inhuman or degrading treatment) as the applicant had not been provided with the minimum medical supervision for the timely treatment of his HIV infection while in detention.

Treatment of a physically disabled prisoner

Price v. the United Kingdom (33394/96)

10.7.2001 (Chamber)

Adele Price, a four-limb deficient thalidomide victim who also suffers from kidney problems, was committed to prison for contempt of court in the course of civil proceedings. She was kept one night in a police cell, where she had to sleep in her wheelchair, as the bed was not specially adapted for a disabled person, and where she complained of the cold. She subsequently spent two days in a normal prison, where she was dependent on the assistance of male prison guards in order to use the toilet.

The Court found that to detain a severely disabled person in conditions where she was dangerously cold, risked developing sores because her bed was too hard or unreachable, and was unable to go to the toilet or keep clean without the greatest of difficulty, constituted degrading treatment contrary to Article 3.

Detention of an elderly prisoner

Papon v. France (64666/01)

07.06.2001 Inadmissible

Maurice Papon, who was serving a prison sentence for aiding and abetting crimes against humanity, was 90 years old when he lodged his complaint. He maintained that keeping a man of his age in prison was contrary to Article 3 and that the conditions of detention in the prison where he was kept were not compatible with extreme old age and with his state of health.

In this case the Court held that in view of Mr Papon's general state of health and his conditions of detention, his treatment had not reached the level of severity required to bring it within the scope of Article 3. While he had heart problems, his overall condition had been described as "good" by an expert report.

The Court did not exclude the possibility that in certain conditions the detention of an elderly person over a lengthy period might raise an issue under Article 3, but pointed out that regard was to be had to the particular circumstances of each specific case.

It also noted that none of the Convention states had an upper age limit for detention.

Treatment of a drug addict suffering from withdrawal symptoms

McGlinchey and Others v. the United Kingdom (50390/99)

29.4.2003 (Chamber)

Judith McGlinchey, who had a long history of heroin addiction, was sentenced to four months' imprisonment for theft in December 1998. While in prison she manifested heroin-withdrawal symptoms, had frequent vomiting fits and significantly lost weight. She was treated by a doctor and, as her condition worsened after one week in prison, admitted to hospital, where she died in January 1999. Her relatives complained that Ms McGlinchey had suffered inhuman and degrading treatment in prison prior to her death.

The Court concluded from the evidence before it, in particular the medical records, that the allegations by Ms McGlinchey's relatives that the prison authorities had failed to provide her with medication for her heroin-withdrawal symptoms and locked her in her cell as a punishment were unsubstantiated. However, the Court found by six votes to one that the prison authorities had failed to comply with their duty to provide her with the requisite medical care, in violation of Article 3.

Pending cases

Iurie Matcenco v. Moldova and Russia (10094/10)

Communicated to the Governments in March 2010

Detained in prison in Tiraspol on suspicion of fraud, Mr Matcenco complains, under Article 3, that he was ill-treated by the militia of the separatist Transdniestrian region and that he was not given the necessary medical assistance required as a result of his ill-treatment and his hunger strike. He further complains under Article 5 (right to liberty and security) that he was deprived of legal assistance since the day of his arrest and under Article 8 (right to respect for private and family life) that he was not allowed to see his family for several months.

Stanciu v. Romania (35972/05)

Communicated to the Government in May 2010

Serving a twelve-year prison sentence, Mr Stanciu complains of the prison conditions he is subjected to, in particular the lack of adequate medical care, the overcrowding of cells, the insalubrious sanitary facilities, the presence of lice and the lack of running water. He relies on Article 3.

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