



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 12 June 2014

FIRST SECTION

Application no. 66823/12
Vladimir Viktorovich NIZOV
against Russia
lodged on 12 September 2012

STATEMENT OF FACTS

The applicant, Mr Vladimir Viktorovich Nizov, is a Russian national, who was born in 1969 and lived before his arrest in the town of Lyskovo in the Primorye Region. He is serving his sentence in a correctional colony in the Nizhniy Novgorod Region.

The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

1. The applicant's state of health

The applicant's left leg was amputated at the hip level and until his arrest he used a prosthetic leg full time. In February 2009 he was declared as suffering from 2nd-degree disability.

On 26 November 2010 the applicant was arrested on suspicion of drug trafficking. He alleges that his prosthetic leg was taken from him by the police and since then he has been using crutches to walk around.

On 7 December 2010 the applicant was taken from detention facility no. 3 to the police ward of the Lyskovo police department. On the same day the applicant complained to police warders that he did not feel well, that his right leg was swollen and was covered with ulcers and that he had fever. On the following day the applicant was taken to a surgeon in the Lyskovo town hospital. The surgeon recorded the applicant's very high temperature. He also made an entry in the record that the lower part of the applicant's leg was extremely swollen, bluish, painful and covered with ulcers with serous secretion. The surgeon's diagnosis was as follows: acute thrombophlebitis of deep veins of the right leg.

The applicant required urgent placement in a hospital. However, given the lack of places in the surgical department of the hospital, he was only admitted to the hospital on 10 December 2010. The applicant insisted that for two days following the examination by the surgeon on 8 December 2010 he had been left without any assistance in the police ward.

The applicant stayed in the hospital until 30 December 2010 and was released to the police ward with the diagnosis of full recovery.

The applicant alleged that an acute deterioration of his health in December 2010 was the result of his inability to obtain the leg prosthesis. On a number of occasions he asked the detention authorities to provide him with one.

In summer 2011 a model of prosthetic leg was developed for the applicant. However, he could not use it as it required his admission to a special facility/hospital where prosthesis could have been adjusted for the applicant's individual use.

In a letter on 13 January 2012 by the Nizhniy Novgorod State Orthopedic plant (an entity performing individual adjustment of prosthesis) informed the applicant that he could not be provided with the required services "in the conditions of the detention facility as they did not have necessary equipment".

In March 2012 the applicant was admitted to the vascular department of the Lyskovo town hospital following his having been diagnosed with ischemic disease. In the hospital on 4 May 2012 the applicant was examined by a surgeon who diagnosed him with postthrombophlebitic syndrome of the right leg and chronic venous insufficiency.

Following another series of the applicant's complaints about the lack of possibility to receive prosthetic device, on 8 October 2012 he received a letter from a deputy head of the Nizhniy Novgorod Service for Execution of Sentences. The relevant part of the letter read as follows:

"Provision of prosthesis is ensured in line with 'Individual program of the rehabilitation of a disabled person, developed by federal state organisations of medical social expertise'. In line with the program of 2 September 2009 [the applicant] was recommended a walking cane. [The applicant] was given crutches. There are no other documents ... in [the applicant's] medical or personal files.

An issue of providing [the applicant] with a leg prosthesis will be decided in line with 'Individual program of the rehabilitation of a disabled person' for which he will be sent to a medical social expert examination."

The applicant submitted that he requested to subject him to a medical examination to take a decision as soon as possible.

On 4 April 2013 the applicant was again seen by a surgeon who confirmed his diagnosis of postthrombophlebitic syndrome with trophic disturbances in the decompression stage. The surgeon recommended a specific drug regimen, including anesthetics. He also stated that in order to determine whether the applicant required surgical treatment it was necessary to perform a Doppler ultrasound scanning of the blood vessels in the right leg. The surgeon also noted that it was impossible to perform such an examination in the local hospital as it did not have necessary equipment. The surgeon concluded that the applicant, in line with "medical and social requirements", needed functional prosthetic leg.

2. Criminal proceedings against the applicant

On 23 June 2011 the applicant was found guilty of several counts of drug trafficking and sentenced to seven years of imprisonment. That judgment was quashed on appeal on 23 September 2011 and the case was sent for re-examination to the trial court. The applicant's detention on remand was extended.

On 28 April 2012 the Lyskovo District Court again found the applicant guilty of several counts of drug trafficking and sentenced him to five years and six months of imprisonment. The judgment became final on 11 September 2012 when it was upheld on appeal by the Nizhniy Novgorod Regional Court.

COMPLAINTS

The applicant complained under Article 3 of the Convention that for years he had been forced to endure inhuman sufferings as result of his having been unable to obtain proper leg prosthesis. He argued that the absence of prosthetic legs led to his right leg having become seriously impaired which could result in his losing it.

QUESTION TO THE PARTIES

In light with the applicant's complaint that he was not provided with prosthetic leg, was the treatment to which he was subjected by the penitentiary authorities in compliance with the requirements of Article 3 of the Convention?