

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

THIRD SECTION

DECISION

Application no. 50405/06
Lada Vyacheslavovna MALANICHEVA
against Russia

The European Court of Human Rights (Third Section), sitting on 31 May 2016 as a Chamber composed of:

Luis López Guerra, *President,*
Helena Jäderblom,
Helen Keller,
Johannes Silvis,
Dmitry Dedov,
Pere Pastor Vilanova,
Alena Poláčková, *judges,*

and Stephen Phillips, *Section Registrar,*

Having regard to the above application lodged on 14 November 2006,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Lada Vyacheslavovna Malanicheva, is a Russian national who was born in 1968 and lives in St Petersburg.

2. On 18 December 1985 the applicant attacked a classmate and caused the victim permanent injuries by cutting her face. Two days after the attack, the applicant voluntarily committed herself to a psychiatric facility. On 11 February 1986 a panel of psychiatrists concluded after an inpatient examination of the applicant's mental health that despite having symptoms of a psychopathic disorder she was able to control her actions on the day of the attack and was competent to stand trial.

3. On 28 May 1986 she was convicted of aggravated hooliganism by the Vyborgskiy District Court of Leningrad (*Выборгский районный народный*

суд г. Ленинграда) and sentenced to three years' imprisonment. In 1988 she was released from prison.

4. Between 1985 and 1992 the applicant's name was on the hospital register of persons suffering from psychiatric disorders. It was removed after remission, with the final diagnosis being disinhibited psychopathy.

5. On 6 August 2002 the Primorskiy District Court of St Petersburg (*Приморский районный суд г. Санкт-Петербурга*) ("the District Court") dismissed an application by psychiatrists for a psychiatric examination of the applicant without her consent because there was no evidence she was suffering from a severe psychiatric disorder. In the course of those proceedings, the municipal healthcare authorities, psychiatric facilities and domestic courts exchanged information on the applicant's mental health in internal communications.

6. In 2006 the applicant, represented by a lawyer, brought a libel action in the District Court against two psychiatric facilities and the municipal healthcare authorities. She challenged the validity of her medical records, the fact that between 1985 and 1992 she had been on the hospital register of persons suffering from psychiatric disorders, as well as references to various aspects of her mental health in the internal communications between the healthcare institutions and in their submissions to the courts. She also brought other, accessory claims.

7. The defendants applied to the court for an order for a psychiatric report to confirm the validity of the applicant's medical records. However the court refused to grant such an order because the applicant was categorically opposed to it. At the same time, the trial court took account of the provision in Article 79 of the Civil Procedure Code that a fact which needs to be proven by an examination by experts is considered to be proven without such an examination when a party to a dispute refuses to take part in the examination or furnish necessary materials.

8. On 29 March 2006 the District Court dismissed the applicant's libel action. The court highlighted that it was for the medical professionals to give any diagnosis about the applicant and concluded that she had failed to prove that there had been any errors in her medical records and or that there had been no grounds to keep her on the hospital register between 1985 and 1992. Accordingly, the references to her medical history and state of mental health in the internal communications between the healthcare institutions had not been libellous. At the same time, the District Court ruled in favour of the applicant's claim for damages for the failure by one of the psychiatric institutions to provide her with a copy of her medical records and awarded her the amount she had claimed of 500 euros (EUR).

9. On 15 May 2006 the judgment was upheld on appeal by the St Petersburg City Court (*Санкт-Петербургский городской суд*).

10. According to the applicant's submissions to the Court, in 2008 there was a criminal investigation against her on suspicion of theft. After

spending several months in detention, the criminal case against her was terminated by the domestic courts because she was ruled incompetent to stand trial. On 30 September 2011 she was transferred to a psychiatric facility for treatment, without her consent. No documents were provided by the applicant in relation to any of those proceedings.

COMPLAINTS

11. Referring to Articles 3, 5 and 8 of the Convention, the applicant complained in essence under Article 8 about the fact that between 1985 and 1992 her name had been present on the hospital register of persons suffering from psychiatric disorders and about allegedly false references to various aspects of her mental health in internal communications between the healthcare institutions and in their submissions to the domestic courts.

12. Further, in reference to the proceedings which took place in 2008-2011, the applicant submitted complaints under Articles 3, 5 and 6 of the Convention.

THE LAW

13. It is well-established in the case-law of the Court that storing and sharing data relating to the private life of an individual and, more specifically, personal medical data, amounts to an interference with Article 8 of the Convention and therefore attracts its protection (see *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, § 67, ECHR 2008, and *L.L. v. France*, no. 7508/02, § 32, ECHR 2006-XI). However, before considering the merits of the application the Court must examine whether it satisfies the requirements of Article 35 of the Convention.

14. At the outset, the Court notes that many of the significant events in the applicant's case happened before the entry of the Convention into force in respect of the Russian Federation on 5 May 1998. However, the Court considers that even if those facts had some form of continuing impact on the applicant after the above date, the applicant's complaints are manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention.

15. It is evident in the present case that the healthcare institutions had the applicant's medical records in their possession, had in the past kept her name on the hospital register of persons suffering from psychiatric disorders, and shared that information in their internal communications and submissions to the domestic courts. The applicant did not call into question the fact that that the storing and sharing of that data as such was prescribed by law or that it pursued a legitimate aim. Indeed, it has previously been

accepted that within the meaning of Article 8 of the Convention the recording of information concerning mental patients serves not just the legitimate interest of ensuring the efficient running of the public hospital service, but also that of protecting the rights of the patients themselves (see *Yvonne Chave née Jullien v. France (dec.)*, no. 14461/88, 9 July 1992).

16. The crux of the applicant's complaints concerning the presence of her name on the hospital register and the sharing of information concerning her mental health rests on her disagreement with the diagnosis given by the psychiatrists. At the same time, the applicant did not argue that her medical records were at any point divulged to the general public or made generally accessible in any other way. Nor did she argue that the procedures employed by the healthcare institutions and the courts to share the information regarding her mental health lacked sufficient safeguards.

17. Having regard to the legitimate aim mentioned above, the Court accepts that it was necessary for the effective operation of the domestic healthcare institutions and the decision-making of the courts to store and share the relevant information (see, *a contrario*, *L.L. v. France*, cited above, §§ 45-46). Nothing in the material in the Court's possession indicates that the information was made accessible to the public or was used for any other purpose than deciding on the most suitable medical care for the applicant.

18. Accordingly, the Court concludes that the complaints concerning the presence of the applicant's name on the hospital register of persons suffering from psychiatric disorders between 1985 and 1992 and the allegedly false references to various aspects of her mental health in the subsequent internal communications between the healthcare institutions and in their submissions to the courts are manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

19. Lastly, the applicant lodged a number of complaints invoking Articles 3, 5 and 6 of the Convention concerning her prosecution for theft in 2008-2011, her pre-trial detention and her placement in a psychiatric facility for treatment without her consent. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that these complaints must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Done in English and notified in writing on 23 June 2016.

Stephen Phillips
Registrar

Luis López Guerra
President