



Ukrainian woman's detention in a psychiatric hospital for 13 days breached her human rights

In its Committee judgment in the case of [K.K. v. Ukraine](#) (application no. 79412/17) the European Court of Human Rights has, unanimously, held that there had been:

**a violation of Article 3 (prohibition of inhuman or degrading treatment/investigation), and
a violation of Article 5 § 1 (right to liberty and security).**

The case concerned in particular Ms K.K.'s confinement in a psychiatric hospital and her allegations of ill-treatment there.

The Court found that the applicant had been unlawfully detained in a psychiatric hospital for 13 days. She had been given neuroleptic medication and tied to her bed whenever she had attempted to leave, without any proof of her posing a danger to herself or others or indeed actually having a mental disorder. Such arbitrary treatment had to have made her feel anxious and inferior.

The judgment is final.

Principal facts

The applicant, K.K., is a Ukrainian national who was born in 1986 and lives in Ankeny, the USA.

On 9 June 2013 she was taken by ambulance to a psychiatric hospital in the Kherson region, Ukraine, complaining of anxiety and exhibiting confused thoughts. She was admitted on the basis of a document said to record her informed consent. However, she later contested the authenticity of her signature on the consent form, suggesting it had been forged by her then husband.

She was discharged on 22 June 2013 when her mother complained to the police that she had been unlawfully detained.

During the 13 days in the hospital she was diagnosed with an acute psychotic disorder and administered neuroleptics. According to her medical file, she was repeatedly tied to her bed whenever she wanted to "head off somewhere without reason", did not comply with orders or became agitated.

She has since undergone a psychiatric assessment, which found that she did not suffer from any mental disorder.

Between 2014 and 2016 she lodged various complaints, including a criminal one, concerning her hospitalisation and ill-treatment. A criminal investigation into her allegations of unlawful hospitalisation still remains open. Most recently – according to the Government – Ms K.K.'s case file was lost following the occupation of Kherson by the Russian Federation. No criminal investigation into the applicant's allegations of ill-treatment has ever been launched.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 7 November 2017.

Ms K.K. complained that her confinement in the psychiatric hospital had been unlawful and that she had been ill-treated there. She also complained that the investigation into her complaints had been

ineffective and too long. The case was examined under Articles 3 (prohibition of inhuman or degrading treatment) and 5 § 1 (right to liberty and security).

Judgment was given by a Committee of three judges, composed as follows:

Lado **Chanturia** (Georgia), *President*,
Mykola **Gnatovskyy** (Ukraine),
Úna **Ní Raifeartaigh** (Ireland),

and also Martina **Keller**, *Deputy Registrar*.

Decision of the Court

Article 5 (right to liberty and security)

First, the Court found that Ms K.K.'s hospitalisation for 13 days had amounted to a deprivation of liberty. The medical staff had had complete and effective control over her throughout her stay, which could not be considered voluntary bearing in mind the contested consent form and the documented use of physical restraint whenever she attempted to leave.

Furthermore, there had been neither an assessment by a panel of psychiatrists nor a judicial decision authorising her detention, in total disregard of procedure in Ukraine. Nor did the Government argue that Ms K.K. had been a risk to herself or anyone else. Indeed, a psychiatric assessment carried out one year later concluded that she did not have a mental disorder.

The Court therefore considered that Ms K.K.'s detention in the psychiatric hospital had not been lawful, in violation of Article 5 § 1.

Article 3 (prohibition of inhuman or degrading treatment/investigation)

The Court noted that the Ukrainian authorities had never investigated Ms K.K.'s allegations of ill-treatment, despite her specific requests and an abundance of evidence regarding her compulsory psychiatric treatment and the use of restraints against her. Any new round of an investigation could hardly be expected to produce results given the loss of her case file. The investigation into her allegations had not therefore been effective.

Moreover, it considered that there had been no proven necessity for giving her neuroleptics or tying her down. The medical records did not mention that she was a danger to herself or others; in fact the restraints had been used against her solely to restrict her freedom of movement. Such unlawful and arbitrary treatment had – at the very least – to have caused Ms K.K. to feel fear, anguish and a sense of inferiority.

The Court concluded that there had been a violation of Article 3 both as concerned the investigation as well as the treatment to which Ms K.K. had been subjected.

Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant 16,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,500 in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.