



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

FIRST SECTION

Application no. 44002/06  
Olga Vladimirovna OREKHOVA  
against Russia  
lodged on 22 September 2006

**STATEMENT OF FACTS**

The applicant, Ms Olga Vladimirovna Orekhova, is a Russian national, who was born in 1982 and lives in the town of Nadym, Yamalo-Nenetskiy Autonomous Region.

**The circumstances of the case**

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

On the night of 21 March 2006 the applicant, a former police officer, was taken by her commanding officer to a psychiatric neurological hospital. The latter's decision was prompted by a suspicion that the applicant was under an influence of alcohol or drugs given her inadequate behaviour.

Doctors attempted to perform a toxicological examination but the applicant did not respond to any requests to provide a sample for testing. Record no. 142/c of a medical examination drawn up in the hospital read as follows (handwritten wording in italics):

“2. Reason for the examination: suspicion that [an examinee] drove a vehicle being intoxicated, that [he/she] was at work while being intoxicated, a medical examination in view of providing medical assistance and so on (indicate the reason) *The presence at work in an intoxicated state, in a state of drug intoxication*

3. Appearance of the examinee: the state of his/her clothes, skin, presence of injuries (traumas, bruises, etc.) *[The applicant] wears the uniform, the uniform is not damaged. The visible parts of the skin do not have abrasions [or] injuries*

4. Behaviour: tense, unsociable, nervous, agitated, aggressive, fussy, euphoric, talkative, unstable mood, sleepy, reactions deferred, whether [he/she] complains about his/her state (what the complaints are about) *[The applicant] is tense, unsociable; casts sullen and frozen glances, she answers questions after a pause. [She] does not make any complaints about the state of her health*

5. State of mind, ability to orient himself/herself in place, time, situation and in respect of his/her own personality *She [correctly identified herself], she identifies the date – 20 March 2006, she orients herself in place*

6. Speech ability: cohesion of the speech, dearticulation, blurriness and so on

*Speech ability is not affected*

7. Vegetative vascular reactions (skin condition, state of mucous membrane of eyes, tongue, sweatiness, salivation *The face is slightly hyperaemic, the tongue is dry and with a whitish coat. Eye scleras are clear*

Breathing: fast, slow *Frequency of breathing movement [is] 16 per minute pulse 80 beats per minute, blood pressure 130/100 mm*

Eye pupils: narrowed, widened, response to the light, nystagmus in a side glance *Pupils are slightly widened, photoreaction to the light is preserved, no nystagmus*

Movement sphere *[The applicant's] movements [are] calm*

Facial expression *Facial expression is frozen*

Manner of walking (wobbling, legs are thrown to the sides while walking), walking accompanied by fast turning (staggering while turning), position in the Romberg pose *The walking is slow without staggering. In the Romberg pose she places her feet widely for balance*

Precise movements (to pick up a coin from the floor, to touch a nose with a finger) *[She] slowly and carefully touches her nose with a finger, without making an apparent blunder*

Trembling of eyelids, tongue, fingers *Trembling of eyelids*

9. Are there signs of a nervous psychiatric illness, organic damage to the central nervous system, physical exhaustion. Injuries suffered (according to an examinee) *[The applicant] denies having any head traumas. [She] has not been placed under the psychiatric supervision or under the supervision by a neurologist*

10. Information about the last occasion on which alcohol or medicines were used: subjective, objective (according to documents or other sources) *[The applicant] denies that she used alcohol or drugs*

11. Smell of alcohol or of another substance from the mouth *Undetermined*

12. Presence of alcohol or of another substance in the expired air or in biological products of the body:

a) the air was examined with a use of equipment ... *at 00.35 a.m. [the test] showed 0,0% of ethanol in the blood*

...

b) biological products (urine, saliva, a swab from the surface of the lips, from the skin on the face, from the fingers) *Refused to give biological products [for testing]*

...

13. Other results of the medical examination or information from documents

*[The applicant] is negative in her behaviour, in response to requests to give urine for testing she remains silent, she does not respond to numerous requests to proceed to a lavatory room and to give urine for testing*

14. CONCLUSION ... *No conclusion can be made as the examinee refuses to give biological products*”

The applicant refused to sign the report.

At 2.00 a.m. on 21 March 2006 a psychiatrist on duty, given the information provided about the applicant’s behaviour by her commanding officer and following a visual examination of the applicant, decided to admit her to a psychiatric hospital.

Six hours later, in the absence of the applicant’s consent to hospitalisation, a medical commission comprising four psychiatrists examined her and decided that she should be admitted for inpatient psychiatric treatment against her will.

On the following day, the head of the hospital sent a request to the Nadym Town Court, seeking an authorisation of the applicant’s involuntary psychiatric treatment in the hospital.

On 23 March 2006 the Nadym Town Court accepted the request for examination, authorised the applicant’s detention in the psychiatric hospital pending the examination of the request for her involuntary treatment, appointed legal aid counsel to represent the applicant’s interests in the proceedings and scheduled a hearing in the psychiatric hospital for 27 March 2006.

On the day of the hearing the Town Court, having heard the applicant’s lawyer and the representative of the hospital and having observed the applicant, authorised her involuntary hospitalisation. The Town Court noted that the full text of the decision containing the reasoning was to be issued on the following day.

The applicant did not provide the Court with a copy of the full text of the decision. She argued that she had not been served with it and that she had been unable to appeal against it. She explained that she had been under an influence of strong medicines paralysing her will and that her parents had not been informed about the proceedings concerning the admission to the hospital.

The applicant stayed in the hospital for fifty-eight days. She submitted that on 25 June 2006 she had graduated with honours from a law faculty.

## COMPLAINTS

Without referring to any Convention provision, the applicant complained that she had unlawfully remained in the psychiatric hospital and that she had been unable either to appeal against the decision of 27 March 2006 or to challenge the grounds for her detention during the entire period.

### **QUESTIONS TO THE PARTIES**

1. Was the applicant deprived of her liberty in breach of Article 5 § 1 of the Convention? In particular, did the procedure of her confinement to a psychiatric hospital provide sufficient guarantees against arbitrariness (see *Winterwerp v. the Netherlands*, judgment of 24 October 1979, Series A no. 33, § 45)?

2. Did the applicant have at her disposal an effective procedure by which she could challenge the lawfulness of her detention in the psychiatric hospital, as required by Article 5 § 4 of the Convention? In particular, was she assigned legal aid counsel to bring an appeal against the decision of 27 March 2006? Was she duly served with a full text of that decision? Was she able to effectively use her procedural rights, including a right to appeal, given the state of her mental health?

3. The Government are requested to produce copies of medical opinions which warranted the applicant's involuntary psychiatric confinement, including the opinion by the four medical experts issued on 22 March 2006, and a copy of the full text of the decision of 27 March 2006.