



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

FIRST SECTION

Application no. 31974/11
Ilya Vladimirovich KOROVIN and Tatyana Yuryevna KOROVINA
against Russia
lodged on 29 April 2011

STATEMENT OF FACTS

The applicants, Mr Ilya Vladimirovich Korovin and Ms Tatyana Yuryevna Korovina, are Russian nationals, who were born in 1989 and 1954 respectively and live in Kazan. They are son and mother respectively.

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

A. First applicant's arrest and detention

On 9 June 2009 the first applicant was arrested in connection with a drug-related offence, and on 10 June 2009 he was detained in custody.

On 29 July 2009 the forensic psychiatric examination found that the first applicant was suffering from schizophrenia requiring compulsory psychiatric treatment.

On 3 August 2009 Sovetskiy District Court of Kazan extended the first applicant's detention until 9 September 2009.

On 28 August 2009 Sovetskiy District Court further extended the first applicant's detention until 9 October 2009. On 8 September 2009 the Supreme Court of the Republic of Tatarstan upheld the above extension order on appeal.

B. First applicant's compulsory psychiatric treatment in general type psychiatric hospital

On 15 December 2009 Sovetskiy District Court relieved the first applicant from criminal responsibility finding that he was mentally

incapacitated. The District Court ordered the application of compulsory measures of a medical nature to the applicant and his placement in a general type psychiatric hospital (*психиатрический стационар общего типа*). The District Court further maintained the custodial measure until the entering into force of its decision and the applicant's placement in the psychiatric hospital.

On 19 January 2010 the applicant was placed in Republican Clinical Psychiatric Hospital named after V.M. Bekhterev (*Республиканская клиническая психиатрическая больница им. Бехтерева*).

After the applicant's attempt to escape the hospital on 21 April 2010, he was held for a week in a ward measuring approximately five sq.m., with no windows, no ventilation, artificial lighting around-the-clock, a bucket instead of a lavatory pan emptied twice every twenty-four hours.

C. First applicant's transfer to specialised psychiatric hospital with intensive care

On 21 May 2010 the administration of the hospital filed a request for the first applicant's transfer to a specialised psychiatric hospital with intensive care (*психиатрический стационар специализированного типа с интенсивным наблюдением*). The request was supported by a report of the same date drafted following the first applicant's examination by a panel of three psychiatrists practising in the Republican Clinical Psychiatric Hospital named after V.M. Bekhterev. The report read as follows:

“... [The first applicant] suffers from a chronic psychiatric disorder in the form of pseudo-psychotic schizophrenia aggravated by multiple-drug addiction. While under compulsory psychiatric treatment, [the latter] systematically breaches hospital rules, groups asocial patients around himself, sets them against hospital personnel, disorganises the work in the department, refuses treatment. [The first applicant] escaped from hospital and incites other patients to do so; sneaks in prohibited items, including cutting items. In view of the foregoing, the panel considers it necessary to recommend changing the form of the compulsory measure of medical nature in respect of the [first applicant] from compulsory treatment in a general type psychiatric hospital to a specialised psychiatric hospital with intensive care.”

Basing on the report prepared by the hospital's psychiatrists, on 4 June 2010 Sovetskiy District Court granted the hospital's request. The applicant was not brought to the hearing. His legal representative (the second applicant) and his lawyer were not informed of the hearing.

On 16 June 2010 the first applicant was transferred to Kazan Specialised Psychiatric Hospital with Intensive Care (*Казанская психиатрическая больница специализированного типа с интенсивным наблюдением*).

On 17 June 2010 the second applicant appealed against the decision of 4 June 2010.

On 30 July 2010 the Supreme Court of the Republic of Tatarstan quashed the decision of 4 June 2010 on appeal because the applicants had not been duly notified of the hearing. The case was remitted for a fresh consideration by a different bench. The first applicant remained in Kazan Specialised Psychiatric Hospital with Intensive Care.

On 23 August 2010 Sovetskiy District Court again ordered the first applicant's transfer to a specialised psychiatric hospital with intensive care.

The first applicant was not allowed to participate in the hearing. The hearing took place in the presence of the second applicant and the lawyer.

On 5 October 2010 the Supreme Court of the Republic of Tatarstan quashed the decision of 23 August 2010 on appeal as taken in the absence of the first applicant. The case was remitted for a fresh consideration by a different bench.

On 25 October 2010 Sovetskiy District Court held an off-site court hearing on the premises of Kazan Specialised Psychiatric Hospital. The district court once again ordered the first applicant's transfer to a specialised psychiatric hospital with intensive care. Both applicants and the lawyer were present at the hearing. They submitted that the first applicant's confinement in the hospital had been unlawful in the absence of a final court decision and asked the court to appoint an independent forensic medical examination so as to determine the effect of intensive therapy on his mental condition, to no avail. The court decided that there had been consistent evidence that the first applicant's disorder persisted and that its aggravation required his treatment in a specialised psychiatric hospital with intensive care.

In the meantime the second applicant challenged before the prosecutor's office the lawfulness of the first applicant's confinement in the specialised psychiatric hospital in the absence of a final court decision on this matter.

On 3 November 2010 she received a reply from the Prosecutor's Office of the Republic of Tatarstan (no. 12-672-10) acknowledging the unlawfulness of the first applicant's confinement in Kazan Specialised Psychiatric Hospital with Intensive Care since 16 June 2010 in the absence of a final judicial decision on his transfer.

On 13 December 2010 the first applicant was transferred back to Republican Clinical Psychiatric Hospital.

On 24 December 2010 the Supreme Court of the Republic of Tatarstan quashed the decision of 25 October 2010 on appeal. The case was remitted for a fresh consideration by a different bench.

On 20 January 2011 Sovetskiy District Court decided not to order the first applicant's transfer to a specialised psychiatric hospital with intensive care in the absence of sufficient evidence that he represented any particular threat to himself or society.

On 4 March 2011, however, the Supreme Court of the Republic of Tatarstan quashed the decision of 20 January 2011 on appeal and remitted the case for a fresh consideration.

On 5 April 2011 Sovetskiy District Court again ordered the applicant's transfer to a specialised psychiatric hospital with intensive care. Request for appointment of independent comprehensive medical and psychiatric examinations in respect of the first applicant was dismissed.

On 20 May 2011 the Supreme Court of the Republic of Tatarstan upheld the decision of 5 April 2011 on appeal.

On 9 July 2011 the first applicant was transferred to Kazan Specialised Psychiatric Hospital with Intensive Care.

D. Extension of the first applicant's compulsory psychiatric treatment

On 8 June 2011 Sovetskiy District Court extended the application of compulsory measures of a medical nature to the first applicant and his treatment in a specialised psychiatric hospital with intensive care. The court relied on the report of the first applicant's medical examination of 10 November 2010 carried out by Kazan Specialised Psychiatric Hospital with Intensive Care.

On 9 August 2011 the Supreme Court of the Republic of Tatarstan quashed the above decision on appeal having noted the failure of the district court to obtain the first applicant's medical file and to address the second applicant's arguments so as to verify the validity of the report dating back to over six months ago.

On 9 September 2011 Sovetskiy District Court, having complied with the instruction of the Supreme Court, extended the application of compulsory measures of a medical nature to the applicant and his treatment in a specialised psychiatric hospital with intensive care.

On 21 October 2011 the Supreme Court of the Republic of Tatarstan quashed the above decision on appeal and remitted the matter for a fresh consideration, due to the absence of a more recent report of the first applicant's medical examination.

On 22 November 2011 Sovetskiy District Court, having examined, *inter alia*, the newly prepared report of 10 November 2011, extended the application of compulsory measures of a medical nature to the first applicant and his treatment in a specialised psychiatric hospital with intensive care. The request filed by the second applicant for appointment of the first applicant's independent forensic psychiatric examination was dismissed.

On 10 January 2012 the Supreme Court of the Republic of Tatarstan upheld the above decision on appeal.

E. Conditions of the first applicant's confinement in Kazan Specialised Psychiatric Hospital with Intensive Care

As indicated above, from 16 June 2010 to 13 December 2010 and from 9 July 2011 onwards the first applicant has been detained in Kazan Specialised Psychiatric Hospital with Intensive Care.

The first applicant claimed to have been confined in a ward measuring twenty sq. m. simultaneously with eleven to thirteen other mental health patients, the majority of whom suffered from severe psychiatric disorders accompanied with delirium, hallucinations, etc. He claimed to have been confined to the ward for the most part of the day (with the exception of approximately five hours when inmates were taken to eat, walk or watch TV).

The first applicant alleged the absence of a lavatory and a sink in the ward. He submitted, in particular, that the inmates complied with the needs of nature in a bucket which was emptied by the hospital staff twice a day and which caused suffocating smell in the ward.

The use of shower was restricted to once every two weeks.

The first applicant's correspondence with his mother, the second applicant, was allegedly opened and subjected to censorship by the hospital administration.

F. Civil proceedings against the Ministry of Finance

On 27 May 2011 the second applicant brought civil proceedings on behalf of her son and herself against the Ministry of Finance for compensation of damages incurred as a result of allegedly excessive length of the proceedings over the first applicant's transfer to a specialised psychiatric hospital with intensive care.

On 26 July 2011 the Supreme Court of the Republic of Tatarstan dismissed the applicants' claim as having no legal grounds under domestic law.

On 22 September 2011 the Appeal Section of the Supreme Court of the Republic of Tatarstan upheld the above judgment on appeal.

G. Civil proceedings against Kazan Specialised Psychiatric Hospital with Intensive Care

On 25 October 2011 the second applicant brought proceedings on behalf of her son and herself against Kazan Specialised Psychiatric Hospital for damages incurred as a result of the first applicant's allegedly unlawful stay in the hospital between 16 June and 13 December 2010, allegedly unlawful application to him of intensive therapies in the above period, allegedly unlawful tying of the first applicant to his bed from 30 July to 31 July 2010 after an incident with another patient, censorship of his correspondence, refusal to provide the second applicant with the first applicant's medical file, substandard conditions of confinement.

On 23 December 2011 Sovetskiy District Court dismissed the applicants' claim as unsubstantiated. The court established that until October 2010 the administration of Kazan Specialised Psychiatric Hospital had not been aware that the decision of 4 June 2010 pursuant to which the second applicant was transferred there, had been quashed on appeal. The court held that on 25 October 2010 the first applicant underwent medical examination by a medical panel which concluded on the necessity to continue his compulsory treatment in that hospital. It held that the first applicant's somatic status remained satisfactory and he received medication allowed in the Russian Federation. The court further held that medical documentation of psychiatric patients had only been accessible to hospital medical staff, hospital administration, representatives of supervising health authorities, prosecution and investigation authorities and the court. The remaining aspects of the first applicant's confinement in Kazan Specialised Psychiatric Hospital remained unaddressed by the court.

On 6 February 2012 the Supreme Court of the Republic of Tatarstan upheld the above judgment on appeal. The hearing was public, although the second applicant was not asked whether she would agree to disclosure of the first applicant's medical diagnoses and the contents of her correspondence with the first applicant to the public.

COMPLAINTS

1. The second applicant complained on behalf of the first applicant under Articles 3 and 17 of the Convention about:

(a) conditions of the first applicant's internment between 21 April and 28 April 2010 in the Republican Clinical Psychiatric Hospital;

(b) tying of the first applicant to his bed from 30 July to 31 July 2010 in Kazan Specialised Psychiatric Hospital with Intensive Care; and

(c) conditions of the first applicant's internment in Kazan Specialised Psychiatric Hospital with Intensive Care.

2. She complained on behalf of the first applicant under Article 5 § 1 about:

(a) the alleged unlawfulness of the first applicant's detention between 10 June 2009 and 19 January 2010; and

(b) the alleged unlawfulness of the first applicant's confinement in Kazan Specialised Psychiatric Hospital with Intensive Care.

3. The second applicant further complained under Article 6 § 1 about:

(a) the alleged unfairness of the proceedings concerning the first applicant's transfer to a specialised psychiatric hospital and the extension of his confinement there in that the court refused all requests for appointment of an independent psychiatric examination in respect of the first applicant and relied on reports prepared by the psychiatrists of the hospital where the latter was detained;

(b) allegedly excessive length of the proceedings concerning the first applicant's transfer to a specialised psychiatric hospital;

(c) the alleged bias of the court; and

(d) the failure of the domestic court to address the applicants' claims as to censorship of their correspondence, the episode of the first applicant's tying to his bed between 30 July to 31 July 2010 and substandard conditions of the first applicant's confinement in the proceedings against Kazan Specialised Psychiatric Hospital with Intensive Care.

4. Lastly, she complained under Article 8 about:

(a) censorship of correspondence between her and the first applicant by the administration of Kazan Specialised Psychiatric Hospital with Intensive Care; and

(b) public character of the hearing of the case against Kazan Specialised Psychiatric Hospital with Intensive Care before the Supreme Court of the Republic of Tatarstan.

QUESTIONS TO THE PARTIES

1. Were the conditions of the first applicant's internment in Kazan Specialised Psychiatric Hospital with Intensive Care compatible with the requirements of Article 3 of the Convention? The parties are requested to answer the following questions in respect of *each ward* where the applicant was held throughout his stay in the above institution:

- (a) Indicate the ward number and the dates of the applicant's stay.
- (b) What were the dimensions of the ward?
- (c) How many patients were held in the ward at the same time with the applicant?
- (d) Indicate the applicant's order of day and how many hours throughout the day he was confined to his ward.
- (e) Specify any sanitary arrangements in the ward.
- (f) How often could the applicant have a shower?

2. In respect of the episode of the first applicant's 24 hours' attachment to his bed between 30 July and 31 July 2010 at Kazan Specialised Psychiatric Hospital with Intensive Care, did the measure in question amount to inhuman and/ or degrading treatment contrary to Article 3 of the Convention?

3. As regards the proceedings which ended with the decision of the Supreme Court of the Republic of Tatarstan on 6 February 2012, was there a violation of the applicants' right of access to a court as guaranteed by Article 6 § 1 of the Convention? The reference is made to the failure of the domestic courts to address the applicants' grievances as to the alleged censorship of their correspondence by the administration of Kazan Specialised Psychiatric Hospital with Intensive Care, the first applicant's tying to his bed between 30 July and 31 July 2010 and condition of the latter's confinement in Kazan Specialised Psychiatric Hospital (see *Ponomarev v. Russia*, no. 7672/03, §§ 20-27, 15 May 2008).

4. Has there been a violation of the applicants' right to respect for their correspondence contrary to Article 8 of the Convention? Reference is made to opening of the applicants' correspondence by the administration of Kazan Specialised Psychiatric Hospital with Intensive Care.