



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

FIRST SECTION

Application no. 10426/07
Sergey Alekseyevich TSVETOV
against Russia
lodged on 7 February 2007

STATEMENT OF FACTS

The applicant, Mr Sergey Alekseyevich Tsvetov, is a Russian national, who was born in 1961 and is currently serving a sentence of imprisonment in penitentiary establishment IK-15 located in the village of Potanino in the Chelyabinsk Region.

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

A. The applicant's medical condition

Since 11 May 2004 the applicant has been serving a sentence of imprisonment of six years of imprisonment for murder.

Initially he was held in penitentiary establishment IK-9 in the town of Bakal of the Chelyabinsk Region.

At some point in 2004 he apparently walked on a rusty nail with his bare left foot.

On 14 July 2004 he applied for medical aid to the medical unit of facility LIU-9 located in the town of Bakal of the Chelyabinsk Region, citing pain and numbness in his left shin. He was diagnosed with a varicose of the left lower limb, glomerular nephritis and vasoneurosis.

From 30 August to 17 September 2004 the applicant was held in the medical unit of penitentiary establishment IK-9 for treatment of obliterating endarteritis of the left shin and hypertension of the second degree.

On 17 September 2004 he was transferred for treatment to LPU-3 of the town of Chelyabinsk, in which he remained until 25 November 2004. The applicant was diagnosed and treated in respect of, among other things, an obliterating atherosclerosis of vessels of the lower limbs, a stenosis of the left hip artery and a gangrene of the left foot.

The medical file indicated that the applicant was recommended operative treatment in the form of amputation of his left limb at the hip level. The applicant consented to the operation, having been notified about its consequences.

On 26 October the operation took place and on 25 November 2004 he was charged in a satisfactory condition.

By decision of 14 May 2005 the applicant was categorised as having a temporary disability of the third degree, which on 10 October 2005 was converted into a disability of the second degree.

B. Court proceedings against LPU-3

Thereafter the applicant brought court proceedings for damages against LPU-3 in connection with the allegedly defective treatment of his left leg, which resulted in the amputation. The applicant took the view that the amputation as such or at least the amputation of such degree could have been averted if only the relevant medical authorities had diagnosed and treated his problem timeously.

The defendant disagreed.

The case was accepted for examination by the Satkinskiy Town Court of the Chelyabinsk Region, which, among other things, ordered an expert opinion from a specialised medical institution in respect of the applicant's allegations.

By judgment of 3 August 2006 the Town Court examined and rejected the applicant's claims. The court reasoned as follows:

“... As can be seen from medical file no. 1861 ... already by the time of [the applicant's] admission ... he was diagnosed with “the beginning gangrene of the first toe of the left foot”. The expert examination ... concluded that there were no defects in the medical assistance offered to [the applicant], the conservative treatment being adequate regard being had to the equipment of LPU-3. The instrumental diagnostics enabling the extent and degree to which the vessels have been affected could not be carried out regard being had to the technical capabilities of this establishment. The operation ... was necessary because of the gangrene of the left lower limb which had already started. The high level of amputation depended on the risk of malignant obliterating disease... The expert examination concluded that ... [the applicant's] condition – obliterating disease of arteries of the lower limbs had developed gradually, had a chronic character and the present case is related to its outcome. The clinical diagnostics was carried out adequately, the staging of the disease was indicated correctly. At the same time, even in specialised surgical departments of angiology, equipped with modern diagnosis equipment, such diseases including, even despite the possibility of reconstructive operations, sometimes end up with a high amputation of the limb. This is related in particular to the specific malignancy of the course of the obliterating diseases of arteries in young patients.

The court has no reasons not to trust the conclusions of the experts, they have been warned of the criminal responsibility, the examination having been carried out in State institution “Clinic of the Chelyabinsk State Medical Academy” independent from [the defendant], the expert ... being a doctor and surgeon specialised in angiology with the highest qualifications category and the total duration of practice of over 20 years, the conclusions corresponding to other evidence in the case file.”

The applicant brought an appeal against the judgment of 3 August 2006.

By appeal decision of 20 November 2006 the Chelyabinsk Regional Court upheld the judgment in full.

On 17 April 2007 a judge of the Regional Court rejected the applicant's leave to appeal the previous court decisions by way of supervisory review.

COMPLAINTS

The applicant complains under Article 3 of the Convention that the lack of proper medical assistance in penitentiary establishment LPU-3 lead to the amputation of his left leg at the hip level. The applicant considered that the correct diagnosis and treatment could have either averted the amputation altogether or at least limited the amputation to one of his toes or the left foot.

QUESTION TO THE PARTIES

1. The Government are requested to comment on the applicant's allegations that:

a) the lack of proper diagnostic equipment throughout the relevant time period in all prison hospitals in question lead to various errors in medical treatment of his left leg;

b) the doctors of LPU-3 ignored the applicant's choice of an amputation of a toe on his left foot in September 2004 and instead continued with conservative treatment until November 2004 which eventually resulted in the loss of the left leg at the hip level.

2. In view of the answer to above questions, can it be said that Article 3 of the Convention was respected in so far as the treatment of the applicant's left leg resulted in its amputation at the hip level?