



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

FIRST SECTION

Application no. 35124/09
Yuliya Gennadyevna IVANOVA and Lyudmila Vitalyevna YEROKHINA
against Russia
lodged on 17 May 2009

STATEMENT OF FACTS

The applicants, Ms Lyudmila Vitalyevna Yerokhina and Ms Yuliya Gennadyevna Ivanova, are Russian nationals, born in 1953 and 1971 respectively. The first applicant resides in the town of Tyumen, the Tyumen Region and the second applicant lives in the town of Kirovgrad, the Sverdlovsk Region.

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

They are the mother and the sister of Mr Sergey Petrovich Vasilyev (Mr Vasilyev), born in 1977, who committed suicide in 2008 in prison.

A. Background of the case

After the death of his girlfriend in August 2007 Mr Vasilyev suffered from severe depression and suicidal thoughts.

On 28 March 2008 Mr Vasilyev was examined by a psychologist, who noted that:

“[Mr Vasilyev is] grim, sullen, tense and does not talk much. [He is in] low spirits.

...

Since [his girlfriend] died, Sergey has been in depressed mood. Effectively, he has no will to live. He sees his future without [his girlfriend] as gloom, pessimistic.

...

Specialist's conclusion.

Reaction to an acute stress (loss of a close person), state of depression, suicidal thoughts.

...

Recommendations.

1. Immediate psychiatric attention due to the risk of suicide.
2. Consultations by a psychotherapist.”

On 3 April 2008 policemen stopped Mr Vasilyev in the street, finding a large amount of heroine on him, and brought him to a police station for questioning. The applicants allege that the policemen exerted pressure on him, forcing to confess and to sign some other procedural documents.

On 4 April 2008 Mr Vasilyev was charged with an attempt of drug trafficking. The same evening he cut veins on his left forearm and was brought to a local hospital. A certificate, which was later issued by the deputy head of the hospital, stated:

“... Stab and cut wounds of the left forearm. Suicide.

[Mr Vasilyev has] left the hospital without being examined by a psychiatrist.”

On 5 April 2008 Mr Vasilyev's detention was authorised by a court and he was placed in remand prison IZ-72/1 of the Tyumen Region of Russia. Upon arrival he was examined by several doctors, in particular, by a psychiatrist who noted in his medical file the following:

“Reactive psychosis of an emotionally unstable person. Subdepressive syndrome with suicidal tendencies.

[Sergey Vasilyev] cut the veins on his forearm several times both at liberty and in detention, claiming that he has no will to live after the death of his girlfriend.

... [he is] emotionally inadequate. [His] mood is prone to changes.

[Mr Vasilyev] does not reject suicidal thoughts.”

Sometime later the doctor added that:

”[Sergey Vasilyev] requires oversight of a psychiatrist and supportive treatment with amitriptyline 0,025 three times a day; triftazin up to 30 mg a day for correction of behaviour.”

It appears that Sergey Vasilyev was put in an ordinary cell sharing it with several other detainees.

On an unspecified date in May 2008 the trial proceedings commenced.

On 18 July 2008 the Kalininskiy District Court of Tyumen (the District Court), taking into account the psychologist's conclusions of 28 March and the suicide attempt of 4 April 2008, commissioned a psychiatric expert examination of the applicant's mental health. One of the questions put to the experts was whether the applicant needs compulsory medical treatment and of what kind.

Shortly thereafter the applicant was placed in the regional psychiatric hospital to undergo the examination.

On 6 August 2008 the experts delivered their report. They found that the applicant was sane, did not suffer from any mental illness and did not need compulsory medical treatment. However, they concluded that he had mixed personality disorder, was prone to auto-aggression and emotionally unstable. The experts recommended that:

“In case of conviction, a psychiatrist’s supervision in a penitentiary facility is recommended.”

The same day the applicant was brought back to the remand prison.

On 7 August 2008 Mr Vasilyev, while being in a single-occupancy cell of the remand prison, tried to hang himself on a blanket. He was rescued by the wardens and brought to a municipal hospital with the following diagnosis:

“Unfinished suicide attempt. Mechanical asphyxia, ligature marks on the neck, spoor ... Hypoxic encephalopathy.”

On 8 August 2008 Mr Vasilyev was transferred from the municipal to a prison hospital. The psychiatrist, who treated him there, concluded that Mr Vasilyev was emotionally unstable and suffered from reactive psychosis and subdepressive syndrome with suicidal tendencies. By 19 August 2008 Mr Vasilyev’s condition improved and he was brought back to the remand prison.

On 28 August 2008 Mr Vasilyev’s file was examined by a medical commission, which decided that he:

“... should be placed under prophylactic [psychiatric] supervision as [a person] having suicidal tendencies.”

On 19 September 2008 Mr Vasilyev complained about anxiety and was placed in the medical unit of the remand prison. A medical certificate, issued three days later, stated that:

“[Mr Vasilyev suffers from] complex organic brain syndrome. Psychopathic-like behaviour of excitable type. Tendency to suicidal behaviour.”

After receiving treatment, his condition improved.

B. The events of 14 October 2008 and the ensuing investigation

On 13 October 2008 Mr Vasilyev’s condition suddenly worsened and he started talking about his unwillingness to live. In a letter sent on 8 December 2008 to one of the applicants the regional prison administration claimed that:

“[Immediately after that] Mr Vasilyev was prescribed additional medication, [and] control over his behaviour was tightened.”

Nevertheless, it appears that Mr Vasilyev was still kept in an ordinary prison cell.

On 14 October 2008, at around 11.30 a.m., Mr Vasilyev was found dead by his inmates, having hanged himself on rope made of a blanket.

A number of documents were drawn up later that day, such as reports by a warden, a prison medical officer and an investigator, explanatory notes by his five co-detainees as to the circumstances of Mr Vasilyev’s death, a site

inspection report and a medical certificate stating Mr Vasilyev's biological death.

On the same day a forensic examination of his body was ordered.

On 15 October 2008 the applicants were informed of their relative's death.

On 16 October 2008 a *post mortem* report was issued. It established that Sergey Vasilyev's death had been caused by mechanical asphyxia due to the pressure on the neck through hanging. Also, a small point-like wound was found on his left arm. The forensic expert concluded that it had appeared one or two days prior to the death, had probably been inflicted by a syringe needle and had not resulted in any harm for Mr Vasilyev's health.

On 17 October 2008 the local prosecutor's office decided not to open a criminal investigation into Sergey Vasilyev's death. The decision stated that:

"... there is nothing to conclude that any crimes were committed against the deceased.

According to the forensic report, the cause of Mr Vasilyev's death is hanging.

After questioning Mr Vasilyev's co-detainees it was established that he had repeatedly attempted to commit suicide and had been placed under psychiatric supervision.

Taking into account the above ... no criminal proceedings should be instituted due to the absence of event of the crime."

On 6 November 2008 the second applicant requested the regional prosecutor's office to open a criminal case, claiming that her brother was forced to commit suicide because of the pressure from policemen and the trial judge. She further accused the remand prison personnel of negligence and alleged the existence of a death note written by Mr Vasilyev.

From December 2008 to March 2009 the second applicant made numerous unsuccessful requests with different authorities seeking to perform expert examinations and other investigative actions. Her attempts to access Mr Vasilyev's medical file were rejected because this information constituted a medical secret.

On 13 February 2009 the local prosecutor's office took a decision concerning the request of 6 November 2008. After an additional inquiry it concluded that:

"It was established that no crimes were committed against Mr Vasilyev. His co-detainees questioned during the inquest submitted that Mr Vasilyev had expressed thoughts about suicide even before the event and that he had hanged himself on a blanket in their cell when the others had been asleep.

No death notes were discovered during the inspection of the site.

...

The decision [of 17 October 2008] not to institute criminal proceedings is lawful and substantiated and there are no grounds to conduct an additional inquiry into the event."

On 11 November 2009 the applicants challenged the decision of 17 October 2008 by way of judicial review in the Kalininskiy District Court

of Tyumen. They alleged that the authorities were responsible for the death of their relative as they, being aware of his mental condition, failed to provide him with adequate medical treatment, psychiatric supervision, and to prevent his suicide. They also complained that they were denied access to the investigation file.

On 1 December 2009 the District Court examined the complaint and took the following decision:

“In the course of an inquest it was clearly established that Mr Vasilyev had committed suicide ...

At the same time, the investigation did not check the allegations made by the applicants in their complaint:

- whether Mr Vasilyev had been insulted or humiliated by anyone;
- whether he had had any mental disorders and whether he had been provided with the necessary psychiatric and other medical care;
- whether medical assistance had been provided to Mr Vasilyev, what medication had he taken and what effect on his mental condition had they have;
- what measures to safeguard Mr Vasilyev had been taken by the remand prison personnel, taking into account the fact that he had been placed under psychiatric supervision as a person with suicidal tendencies.

As the above circumstances were not checked by the investigation, the court decides that the inquest was incomplete and the investigator’s conclusion that there was no event of the crime was premature.

Considering the above, the court rules:

To declare the decision not to institute criminal proceedings ... unfounded.

To oblige the head [of the local prosecutor’s office investigative department] to remedy these violations.”

The applicants appealed. They challenged, in particular, the conclusion that the fact of suicide had been “clearly established” by the investigation. They referred to the small point-like wound on Mr Vasilyev’s left arm, alleging that he could have died because of an unknown injection made by prison doctors, and noted once again that they had been denied access to the medical file.

On 21 January 2010 the Tyumen Regional Court rejected the applicants’ arguments on appeal and upheld the judgment.

It appears that the investigation is still pending.

C. The criminal proceedings against Mr Vasilyev in 2008

On an unknown date in 2008 the second applicant’s apartment was searched in the framework of the criminal case against Mr Vasilyev. It appears that no complaints have ever been lodged either by Mr Vasilyev or the applicants in that respect.

In May 2008 the trial commenced. According to the applicants, in the course of the proceedings the presiding judge repeatedly verbally humiliated the applicant.

On 8 October 2008 the Kalininskiy District Court of Tyumen found Sergey Vasilyev guilty of attempted drug dealing and sentenced him to ten years of imprisonment.

On 18 November 2008 the Tyumen Regional Court examined an appeal lodged by Mr Vasilyev's counsel. Considering the accused's death, the court decided to discontinue the criminal proceedings against him.

COMPLAINTS

1. The applicants complain under Article 2 of the Convention about the failure of the State to take measures to prevent Mr Vasilyev's death.

2. Relying on the same Convention provision, they also allege that the investigation into Mr Vasilyev's death was ineffective.

QUESTIONS TO THE PARTIES

1. Did the authorities comply with their positive obligation under Article 2 of the Convention to safeguard Sergey Vasilyev's life? In particular, did the administration of remand prison IZ-72/1 of the Tyumen Region, being aware of his suicidal tendencies, make all necessary arrangements to prevent the suicide?

The Government are invited to produce the complete medical file of Mr Vasilyev and the full list of treatment and supervision measures taken by the remand prison administration in his respect.

2. Was the investigation into Sergey Vasilyev's death effective, as required by Article 2 of the Convention?

The Government are invited to submit a copy of the entire investigation file in relation to Mr Vasilyev's death.