

HUMAN RIGHTS COMMITTEE

Lantsova v. Russian Federation

Communication No. 763/1997

26 March 2002

CCPR/C/74/D/763/1997

VIEWS

Submitted by: Ms. Yekaterina Pavlovna Lantsova, (represented by Ms. Karina Moskalenko, International Protection Center)

State party concerned: The Russian Federation

Date of registered communication: 22 July 1996 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 26 March 2002,

Having concluded its consideration of communication No. 763/1997, submitted to the Human Rights Committee by Ms. Yekaterina Pavlona Lantsova, mother of Mr. Vladimir Albertovich Lantsov, deceased, under the Optional Protocol to the International Covenant on Civil and Political Rights.

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1. The author of the communication is Yekaterina Pavlovna Lantsova, mother of Vladimir Albertovich Lantsov, deceased. Mrs. Lantsova claims that her son, who was born on 27 June 1969, was a victim of violations by Russia of article 6, paragraph 1, article 7 and article 10, paragraph 1 of the International Covenant on Civil and Political Rights. She is represented by counsel.

The facts as presented by the author

2.1 In August 1994, Mr. Lantsov, during an argument, inflicted injuries on another person, as a consequence of which both criminal and civil charges were pressed against him. On 1 March 1995,

he made full reparation to the plaintiff for damages determined in the civil case. Awaiting his criminal trial, set for 13 April 1995, Mr. Lantsov was initially released. However, on 5 March 1995, after failing to appear for a meeting with the investigator, he was placed pre-trial detention at Moscow's pre-trial detention centre, "Matrosskaya Tishina", where he died on 6 April 1995, at the age of 25.

2.2 Mrs. Lantsova submits that her son was healthy when he first entered Matrosskaya Tishina, but that he fell ill due to the very poor conditions at the prison. She complains that her son was given no medical treatment despite repeated requests. Finally, she complains that the Russian Federation has failed to bring those responsible to justice.¹

2.3 The author submits that the conditions at Moscow's pre-trial detention centres are inhuman, in particular because of extreme overcrowding, poor ventilation, inadequate food and appalling hygiene. She refers to the 1994 report of the Special Rapporteur against torture to the Commission on Human Rights.² Regarding access to health care, the report states that overcrowding exacerbates the inability of the staff to provide food and health care, and notes the high incidence of disease in the centres.³ Matrosskaya Tishina is held out for particular criticism in the report: "The conditions are cruel, inhuman and degrading; they are torturous".⁴

2.4 According to Mrs. Lantsova, based on statements from other detainees in the cell with her son, shortly after he was brought to Matrosskaya Tishina his physical and mental state began to deteriorate. He began to lose weight and developed a temperature. He was coughing and gasping for breath. Several days before his death he stopped eating and drank only cold water. He became delirious at some point and eventually lost consciousness.

2.5 It appears that other detainees requested medical assistance for Mr. Lantsov some time after the first week of his detention, that a medical doctor attended to him once or twice in the cell and that he was given aspirin for his temperature. However, between 3 and 6 April, during what was a rapid and obvious deterioration in his condition, he received no medical attention, despite repeated requests for assistance by the other detainees. On 6 April, after the other detainees cried out for assistance, medical personnel arrived with a stretcher. Mr. Lantsov died later that day in the prison clinic. His death certificate identifies the cause of death as "acute cardiac/circulatory insufficiency, intoxication, cachexia of unknown etiology".

2.6 With regard to the exhaustion of domestic remedies the author states that decision to open a criminal investigation into Mr. Lantsov's death is within the competence of the chief of the pre-trial detention centre. A final decision on the matter lies with the procurator's office. Mrs. Lantsov has made timely and repeated applications for a criminal investigation to be opened, but these were consistently denied. She therefore concludes that she has exhausted domestic remedies.

2.7 The procurator's decisions refusing to open a criminal investigation are based on the conclusion that the death in this case resulted from a combination of pneumonia and the stressful conditions of confinement, and that under these circumstances it would be impossible to find the detention centre personnel liable.

The complaint

3. Mrs. Lantsova claims that the Russian Federation violated her son's fundamental human rights by causing his death as a result of confinement under conditions unfit for human survival, and that it also failed in its obligation to provide any meaningful legal protection against such violations. In her opinion, this constitutes violations of articles 6, paragraph 1, article 7 and article 10, paragraph 1 of the Covenant.

Decision on admissibility

4. By a note dated 23 March 1998, the State party informed the Committee that it did not object to the admissibility of the communication.

5.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether it is admissible under the Optional Protocol to the Covenant.

5.2 The Committee has ascertained, as required under article 5, paragraph 2 (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

5.3 The Committee therefore decided, on 7 July 1998 at its sixty-third session, that the communication was admissible in so far as it may raise issues under article 6, paragraph 1, article 7 and article 10, paragraph 1 of the Covenant.

The State party's observations on the merits of the communication

6.1 In its observations on the merits of the communication, dated 28 December 1998, the State party states that Mr. Lantsov was arrested on 5 March 1995 and that on 7 March 1995 he was moved to a pre-trial detention centre and placed in a communal cell. On being admitted to the detention centre he underwent medical examinations, in accordance with the established procedure. At that time he expressed no complaints about his health, no physical anomaly was noted and a fluoroscopic examination of the chest showed no pathological condition. On 6 April 1995, at about 9 a.m., Mr. Lantsov's fellow detainees informed the guards that he was not feeling well. After an examination by the duty doctor, Mr. Lantsov was urgently admitted to the hospital attached to the detention centre, but despite these measures he died at 9.15 a.m. A commission composed of doctors from the preventive medicine institutions attached to the Ministry of the Interior and the Moscow Department of Health carried out an investigation into Mr. Lantsov's death. Its conclusions were that the cause of death had been bilateral ulcerative pneumococcal pneumonia, bilateral pleurisy and focal atelectasis leading to respiratory-cardiovascular failure. The general inflammation of the lungs and the pleural cavity, the patient's failure to seek medical assistance and conditions in the prison had, in the State party's opinion, contributed to the rapid fatal outcome.

6.2 The State party admits that at the time when Mr. Lantsov was detained, the detention centres (sledstvenii izoliator) held more than twice as many detainees as their design capacity, with the result

that conditions of detention were not consistent with the regulations in force. The commission of inquiry concluded that there had been no medical error. The diagnosis of the causes of death had been confirmed in the post-mortem report prepared on 13 May 1995.

6.3 In the absence of an offence, the Office of the Interregional Procurator for Moscow-Preobrajenskaya, the public prosecution department, did not initiate criminal proceedings. This decision was subsequently confirmed by the Moscow Procurator's Office. During the review of the case it was established that the family had not been notified of the death promptly and that the officer concerned had been held accountable.

6.4 The State party admits that, generally speaking, conditions in detention centres constitute a serious problem for Russia and that there is no prospect of an immediate solution. A set of measures to reform the prison system has been established, with a view to improving conditions in the detention centres and bringing them into line with international standards for the treatment of prisoners. The State party cites two presidential edicts and a government decree as examples of recent steps towards the transfer of responsibility for prison establishments from the Ministry of the Interior to the Ministry of Justice. An increase in the number of places in detention centres and prisons was under way, but was being impeded by financial difficulties.

Author's comments on the State party's observations concerning the merits of the case

7.1 In her comments dated 21 December 2000, the author notes that the State party admits the most important facts of the case. Mr. Lantsov had entered the detention centre in perfect health, but conditions there caused his death.

7.2 She draws attention to the fact that he had only been given 15 minutes medical attention before his death. Although the doctors had been informed some days before his death of his deteriorating state of health and the risk of death, they took no action. According to the author, such is common practice in that prison. With regard to the State party's failure to properly investigate, the author recalls the testimony of various prisoners on this point and states that the prosecution department could have collected incriminatory statements if it had conducted a genuine inquiry by hearing testimony from Mr. Lantsov's fellow prisoners. For some reason, the prosecution department did not make a proper inquiry.⁵

7.3 The author also rejects the State party's observation that the detention centres contained only twice as many prisoners as they were designed for. The testimony showed that overcrowding in the centres was five times the indicated level and that detainees had to sleep in turn because of lack of beds.

7.4 As regards the late notification of death to the family, the author states that in fact the authorities had never tried to notify anyone. Without Mr. Lantsov's lawyer, who had tried to visit him, no one could be certain whether or when his mother would have learnt the truth about his death.

7.5 Lastly, the author considers that the State party is trying to evade its responsibility by listing various future decrees which are intended to improve the situation in prisons. This, in her view,

constitutes nothing less than acceptance by the State party of the inhuman standards in prisons. In any event, these decrees were adopted two years after her son's death; current or future acts can change nothing, or cannot in any way change the fact that the Russian Federation violated the human rights of a 25-year-old man in good health and that those violations cost him his life.

Issues and proceedings before the Committee

8.1 The Human Rights Committee has considered this communication, taking account of all the written information submitted to it by the parties, in accordance with the provisions of article 5, paragraph 1, of the Optional Protocol.

8.2 The Committee must determine whether the State party violated articles 6, paragraph 1, article 7 and 10, paragraph 1 of the Covenant in connection with the death of the author's son.

9.1 Regarding the conditions of detention, the Committee notes that the State party concedes that prison conditions were bad and that detention centres at the time of the events held twice the intended number of inmates. The Committee also notes the specific information received from the author, in particular that the prison population was, in fact, five times the allowed capacity and that the conditions in Matrosskaya Tishina prison were inhuman, because of poor ventilation, inadequate food and hygiene. The Committee finds that holding the author's son in the conditions prevailing at this prison during that time entailed a violation of his rights under article 10, paragraph 1 of the Covenant.

9.2 Concerning the death of Mr. Lantsov, the Committee notes the author's allegations, on the strength of testimony by several fellow detainees, that after the deterioration of the health of the author's son, he received medical care only during the last few minutes of his life, that the prison authorities had refused such care during the preceding days and that this situation caused his death. It also takes note of the information provided by the State party, namely that several inquiries were carried out into the causes of the death, i.e. acute pneumonia leading to cardiac insufficiency, and that Mr. Lantsov had not requested medical assistance. The Committee affirms that it is incumbent on States to ensure the right of life of detainees, and not incumbent on the latter to request protection. The stated intention of the State party to improve conditions has no impact in the assessment of this case. The Committee notes that the State party has not refuted the causal link between the conditions of the detention of Mr. Lantsov and the fatal deterioration of his state of health. Further, even if the Committee starts from the assertion of the State party that neither Mr. Lantsov himself nor his co-detainees had requested medical help in time, the essential fact remains that the State party by arresting and detaining individuals takes the responsibility to care for their life. It is up to the State party by organizing its detention facilities to know about the state of health of the detainees as far as may be reasonably expected. Lack of financial means cannot reduce this responsibility. The Committee considers that a properly functioning medical service within the detention centre could and should have known about the dangerous change in the state of health of Mr. Lantsov. It considers that the State party failed to take appropriate measures to protect Mr. Lantsov's life during the period he spent in the detention centre. Consequently, the Human Rights Committee concludes that, in this case, there has been a violation of paragraph 1 of article 6 of the Covenant.

9.3 In the light of the above findings of violations of article 6 and article 10 of the Covenant. The

Committee does not consider it necessary to pronounce itself on a violation of article 7.

10. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the State party failed in its obligation to ensure the protection of Mr. Lantsov, who lost his life as a direct result of the existing prison conditions. The Committee finds that articles 6, paragraph 1, and article 10, paragraph 1 of the Covenant were violated.

11. The Committee is of the view that Mrs. Lantsova is entitled, under article 2, paragraph 3 (a) of the Covenant, to an effective remedy. The State party should take effective measures: (a) to grant appropriate compensation (b) to order an official inquiry into the death of Mr. Lantsov; and (c) to ensure that similar violations do not recur in the future, especially by taking immediate steps to ensure that conditions of detention are compatible with the State party's obligation under articles 6 and 10 of the Covenant.

12. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views. In addition, it requests the State party to publish the Committee's Views.

** The following members of the Committee participated in the examination of the present communication: Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Louis Henkin, Mr. Ahmed Tawfik Khalil, Mr. Eckart Klein, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen and Mr. Maxwell Yalden.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently, to be issued in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

Notes

¹ The communication also indicates that notification of Mr. Lantsov's death was not given to the family or to the local registry office until 11 April 1995, after Mr. Lantsov's lawyer had discovered the fact of his death while at the detention centre to meet with him. This matter was apparently examined by the chief of the pre-trial detention centre (according to the letter of 10 July 1995 from the deputy city procurator, provided with the communication), but the results of this investigation are unknown.

² *Report of the Special Rapporteur, Mr. Nigel S Rodley*, submitted pursuant to Commission on Human Rights resolution 1994/37 (E/CN.4/1995/34/Add.1).

³ *Ibid*, para. 41.

⁴ *Ibid*, para. 71.

⁵ The author invokes the testimony of Mr. Igor Cripenevitch, who stated that Mr. Lantsov had been seriously ill during the last week and that during the last three days, when he had been critically ill, the authorities had refused to help him. The file contains copies of the refusals of the prosecution department to initiate criminal proceedings against the detention centre, and states that Mr. Lantsov's fellow prisoners had been questioned but that their testimony had been contradictory: some had stated that in the two or three days before the death doctors had examined Mr. Lantsov, while others had denied that (reply of the Interregional Procurator for Preobrajenskaya Prokuratura of 9 April 1996, exhibit No. 7).