**Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania**

**Application No:** 47848/08

**Judgment:** 17.07.2014

**Subject -** Failure to provide adequate care for HIV positive mental patient

**Facts –** The application was lodged by a non-governmental organisation, the Centre for Legal Resources (CLR), on behalf of a young Roma man Mr Câmpeanu, who died in 2004 at the age of 18. Mr Câmpeanu had been placed in an orphanage at birth after being abandoned by his mother. When still a young child he was diagnosed as being HIV- positive and as suffering from severe mental disability. On reaching adulthood he had to leave the centre for disabled children where he had been staying and underwent a series of assessments with a view to being placed in a specialised institution. After a number of institutions had refused to accept him because of his condition, he was eventually admitted to a medical and social care centre, which found him to be in an advanced state of psychiatric and physical degradation, without any antiretroviral medication and suffering from malnutrition. A few days later, he was admitted to a psychiatric hospital after displaying hyper-aggressive behaviour. The hospital concerned had previously said that it did not have the facilities for patients with HIV. There he was seen by a team of monitors from the CLR who reported finding him alone in an unheated room, with a bed but no bedding and dressed only in a pyjama top. Although he could not eat or use the toilet without assistance, the hospital staff refused to help him for fear of contracting HIV. He was refusing food and medication and so was only receiving glucose through a drip. The CLR monitors concluded that the hospital had failed to provide him with the most basic treatment and care. Mr Câmpeanu died that same evening.

According to a 2004 report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in the winters of 2003 and 2004 some 109 patients died in suspicious circumstances at the psychiatric hospital in question, the main causes of death being cardiac arrest, myocardial infarction and bronchopneumonia, and the average age of the patients who died being 56, with a number being under 40. The CPT found that some of the patients were not given sufficient care. It also noted a lack of human and material resources at the hospital as well as deficiencies in the quality and quantity of the food and a lack of heating.

The Court dismissed the Government’s preliminary objection that the CLR had no standing to lodge the application. It accepted that the CLR could not be regarded as a victim of the alleged Convention violations as Mr Câmpeanu was indisputably the direct victim while the CLR had not demonstrated a sufficiently “close link” with him or established a “personal interest” in pursuing the complaints before the Court to be considered an indirect victim. However, in the exceptional circumstances of the case and bearing in mind the serious nature of the allegations, it had to have been open to the CLR to act as Mr Câmpeanu’s representative, even though it had no power of attorney to act on his behalf and he had died before the application was lodged.

In so finding, the Court noted that the case concerned a highly vulnerable young Roma man suffering from severe mental disabilities and HIV infection who had spent his entire life in State care and died in hospital through alleged neglect. In view of his extreme vulnerability, he had been incapable of initiating proceedings in the domestic courts without proper legal support and advice. At the time of his death Mr Câmpeanu had no known next-of-kin. Following his death, the CLR had brought domestic proceedings with a view to elucidating the circumstances of his death. It was of considerable significance that neither its capacity to act nor its representations on Mr Câmpeanu’s behalf before the domestic medical and judicial authorities were questioned or challenged in any way. The State had not appointed a competent person or guardian to take care of his interests despite being under a statutory obligation to do so. The CLR had become involved only shortly before his death – at a time when he was manifestly incapable of expressing any wishes or views regarding his own needs and interests, let alone on whether to pursue any remedies. Finding that the CLR could not represent Mr Câmpeanu in these circumstances carried the risk that the respondent State would be allowed to escape accountability through its own failure to comply with its statutory obligation to appoint a legal representative. Moreover, granting CLR standing to act as MrCâmpeanu’s representative was consonant with the Court’s approach in cases concerning the right to judicial review under Article 5 § 4 of the Convention in the case of “persons of unsound mind” (Article 5 § 1 (e)). In such cases, it was essential that the person concerned should have access to a court and the opportunity to be heard either in person or, where necessary, through some form of representation. The CLR thus had standing as Mr Câmpeanu’s *de facto* representative.

The decisions regarding Mr Câmpeanu’s placements were mainly based on which establishment was willing to accommodate him rather than on where he would be able to receive appropriate medical care and support. Mr Câmpeanu was first placed in a medical and social care centre which was not equipped to handle patients with mental health problems. Ultimately he was admitted to a psychiatric hospital, despite the fact that it had previously refused to admit him because it did not have facilities to treat HIV. The transfers from one unit to another had taken place without any proper diagnosis and aftercare and in complete disregard of Mr Câmpeanu’s actual state of health and most basic medical needs. Of particular note was the authorities’ failure to ensure he received antiretroviral medication. He had mainly been treated with sedatives and vitamins and no meaningful examination had been conducted to establish the causes of his mental state, in particular his sudden aggressive behaviour.

The Court underlined that for his entire life Mr Câmpeanu had been in the hands of the authorities, which were therefore under an obligation to account for his treatment. They had been aware of the appalling conditions in the psychiatric hospital, where a lack of heating and proper food and a shortage of medical staff and medication had led to an increase in the number of deaths in the winter of 2003. Their response had, however, been inadequate. By deciding to place Mr Câmpeanu in that hospital, notwithstanding his already heightened state of vulnerability, the authorities had unreasonably put his life in danger, while the continuous failure of the medical staff to provide him with appropriate care and treatment was yet another decisive factor leading to his untimely death. In sum, the authorities had failed to provide the requisite standard of protection for Mr Câmpeanu’s life.

*Conclusion*: violation (unanimously).