

## HUMAN RIGHTS COMMITTEE

### V. A. L. v. Russian Federation

Communication No. 763/1997

7 July 1998

CCPR/C/63/D/763/1997 \*/

### ADMISSIBILITY

*Submitted by:* Y. P. L. (represented by Ms. K. M. of the Moscow based Center of Assistance to International Protection)

*Alleged victim:* The author's son, V. A. L.

*State party:* Russian Federation

*Date of communication:* 22 July 1996

*Date of present decision:* 7 July 1998

The Human Rights Committee, acting through its Working Group pursuant to rule 87, paragraph 2, of the Committee's rules of procedure, adopts the following decision on admissibility.

#### Decision on admissibility

1. The author of the communication is Y. P. L., mother of V. A. L., deceased. Mrs. Y. P. L. claims that her son, who was born on 27 June 1969, is a victim of violations by Russia of articles 6(1), 7 and 10(1) of the International Covenant on Civil and Political Rights. She is represented by K. M., of the Moscow based organization The Center of Assistance to International Protection.

#### The facts as presented by the author

2.1 In August 1994, Mr. V. A. L. injured a man during an argument, and following this incident 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, V. A. L. was initially released. However, on 5 March 1995, after failing to appear for a meeting with the investigator, he was put into pretrial detention in Moscow's pretrial detention centre, "Matrosskaya Tishina". On 6 April 1995, Mr. V. A. L. died there of medical complications.

2.2 Mrs. Y. P. L. submits that her son was healthy when he first entered Matrosskaya Tishina<sup>1</sup>, but that he fell ill due to the extremely poor conditions at the prison (extreme overcrowding, poor ventilation, inadequate food, bad sanitation). 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.<sup>2</sup>

2.3 The author submits that the conditions at Moscow's pretrial detention centres are documented in the 1994 report of the Special Rapporteur against Torture, Mr. Nigel S. Rodley, to the Commission on Human Rights.<sup>3</sup> Regarding access to health care within the pretrial detention centres, the report acknowledges that overcrowding exacerbates the inability of the staff to provide food and health care, and notes the high incidence of disease in the centres.<sup>4</sup> Matrosskaya Tishina is held out for particular criticism in the report: "The conditions are cruel, inhuman and degrading; they are torturous."<sup>5</sup>

2.4 According to Mrs. Y. P. L., 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 had 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 V. A. L. at some time after the first week of his detention, and 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 April and his death, during what was apparently 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. V. A. L. 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."<sup>6</sup>

2.6 The decision to open a criminal case in V. A. L.'s death would be made by the chief of the pretrial detention centre, according to Mrs. Y. P. L.'s counsel.<sup>7</sup> Final decisions on the opening of criminal cases lie with the procurator's office. Mrs. Y. P. L. has made timely and repeated applications to open a criminal case, which have been consistently denied.<sup>8</sup> She concludes therefore 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 speedy onset of death in this situation was the result of the nature of the pneumonia compounded by the stressful conditions of confinement, and that under these circumstances it would be impossible to find the detention centre employees, including medical personnel accountable in the matter.<sup>9</sup>

### The complaint

3. Mrs. Y. P. L. 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 has also failed to provide any meaningful legal protection against such violations. In her opinion,

this constitutes violations of articles 6(1), 7 and 10(1) of the Covenant.

#### Issues and proceedings before the Committee

4.1 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 or not it is admissible under the Optional Protocol to the Covenant.

4.2 By note of 23 March 1998, the State party informed the Committee that it had no objections to the admissibility of the communication.

4.3 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.

4.4 The Committee is not aware of any other obstacles to the admissibility of the communication, and considers that it should be examined on its merits.

5. The Human Rights Committee therefore decides:

(a) that the communication is admissible;

(b) that, in accordance with article 4, paragraph 2, of the Optional Protocol, the State party shall be requested to submit to the Committee, within six months of the date of transmittal to it of this decision, written explanations or statements clarifying the matter and the measures, if any, that may have been taken by it;

(c) that any explanations or statements received from the State party shall be communicated by the Secretary-General under rule 93, paragraph 3, of the rules of procedure to the author's counsel, with the request that any comments which she may wish to make should reach the Human Rights Committee, in care of the Office of the High Commissioner for Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;

(d) that this decision shall be communicated to the State party and to the author's counsel.

[Adopted in English, French, and Spanish, the English text being the original version.]

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\*/ All persons handling this document are requested to respect and observe its confidential nature.

<sup>1</sup> Exhibit N3, a two-page letter in Russian, submitted as "Medical History."

<sup>2</sup> The communication also indicates that notification of Mr. V. A. L.'s death was not given to the family or to the local registry office until 11 April 1995, after V. A. L.'s lawyer had discovered the fact of his death while at the detention centre to meet with him. This matter apparently was

examined by the chief of the pretrial detention centre, according to the letter of 10 July 1995 from the deputy city procurator (provided with the communication), result of this investigation unknown.

<sup>3</sup> 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.

<sup>4</sup> Ibid, para 41.

<sup>5</sup> Ibid, para 71.

<sup>6</sup> Exhibit N5, copy of death certificate, in Russian with English summary.

<sup>7</sup> Communication p.3.

<sup>8</sup> Exhibit N6, decision of Deputy City Procurator, dated 10 July 1995, (no ground for reversal of decision by chief of the pretrial detention centre); Exhibit N8d, decision of Acting Chief for Supervision over the observation of Laws in the Implementation of Criminal Punishment, date 9 October 1995, (denying repeated requests to open a criminal case); Exhibit N7, decision of Inter-Regional Procurator, dated 9 April 1996, (affirming decision not to open criminal case); Exhibit N4a, decision of Senior Assistant Inter-Regional Procurator, dated 13 June 1996, (affirming prior decision). All documents in Russian with English summary.

<sup>9</sup> Exhibit N6 (attributing death also to V. A. L.'s failure to request medical assistance); Exhibit N7.