CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

DECISION

Application no. 11249/03
by Aleksandrs BURCEVS
against Latvia

The European Court of Human Rights (Third Section), sitting on 29 March 2007 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,
Mr C. BÎRSAN,
Mrs E. FURA-SANDSTRÖM,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON,
Mrs I. ZIEMELE,
Mrs I. BERRO-LEFÈVRE, *judges*,
and Mr S. QUESADA, *Section Registrar*,

Having regard to the above application lodged on 25 March 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the observations submitted by the respondent Government and to the applicant's response,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Aleksandrs Burcevs, is a Latvian national who was born in 1974 and is currently detained in the Valmiera Prison. The Latvian Government ("the Government") were represented by their Agent, Mrs I. Reine.

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

According to the documentary evidence submitted by the Government, on 13 November 2000 at 12 a.m. the applicant was apprehended by unspecified police officers of the Jelgava Police on suspicion of infringement of public order, aggravated hooliganism and infliction of bodily injuries and manslaughter and placed in the Temporary Detention Unit of the Jelgava Police Department. He was interrogated from 12:05 to 12:40. According to the applicant, after his arrest, instead of going directly to the police station, the police officers took him to the forest, where they allegedly beat and threatened him to make him confess to the offence. One of the police officers allegedly hit the applicant's hand and broke it. According to the documentary evidence submitted by the Government, at 1 p.m. the applicant was taken to the medical expert, who diagnosed light bodily injuries and contusion of the left hand. According to the applicant, he was interrogated for several hours. Handcuffs were put on his hands and kept on throughout the interrogation, irrespective of the applicant's complaints that his left hand was painful. The applicant was allegedly threatened that his refusal to confess would have negative consequences for him. As a result of the threats and physical pain he confessed. Afterwards, the applicant was taken to the Jelgava City Hospital where his left hand was X-rayed and its fracture discovered. The hand was put into plaster. It was established in the Hospital that the applicant had injured his hand on 11 November 2000.

The applicant alleges that the conditions in the Temporary Detention Unit, where he was kept until 28 December 2000 amounted to torture. In particular, he alleges that the conditions were contrary to any sanitary and hygienic standards. His plastered hand became inflamed because of the dirt in the Detention Unit. The doctor of the Detention Unit changed the plaster once and refused to change it repeatedly or to give any medicine, stating that the applicant intentionally was making the plaster dirty himself. The applicant's proposal to contact his relatives in order to receive the necessary medicine from them was refused without any motivation.

On 28 December 2000 the applicant was transferred to the Riga Central Prison.

According to the documentary evidence, submitted by the Government, on 29 May and 1 June 2001 the applicant requested the administration of the Riga Central Prison to allow him to attend the prison church. In August 2001 the applicant was included in the list of those who were allowed to attend the church services and participate in religious studies. Consequently, the applicant attended the church services 5 times and participated in religious studies 10 times. On 18 September 2001 the applicant was baptized. On 22 and 31 October 2001 the applicant requested permission to attend church services. Following these requests, the prison chaplain visited the applicant on 25 October and 9 November respectively.

On 31 October 2001 and on 19 February 2002 the applicant addressed the authorities of the Riga Central Prison, complaining that he had not received several letters. He was informed that his right to receive correspondence had not been limited and that if there were any letters for him they would have been handed over.

On 24 October 2002 the Jelgava Court found the applicant guilty of infringement of public order, aggravated hooliganism and infliction of bodily injuries and unintentional murder and sentenced him to ten years' imprisonment. In establishing the applicant's guilt, the Court relied on the incriminating statements made by his two co-defendants during the trial and on the incriminating statements of ten witnesses made and recorded during the pre-trial investigation, on six expert opinions and on substantial documentary evidence. The applicant pleaded guilty only partly, denying his statements made during the pre-trial investigations since they were allegedly forced out of him by means of physical and moral torture. The court nevertheless took into consideration the statements made by the applicant during the pre-trial investigation, considering that he was interrogated without the presence of his counsel only twice, neither he nor his counsel complained about the behaviour of the police officers during the pre-trial investigation and he had signed the record of the interrogation without any objections.

The applicant appealed, requesting to refer the case for adjudication *de novo*. On 13 February 2003 the Zemgale Regional Court upheld the judgment, finding that the first instance court had thoroughly analysed the evidence available and had expressly indicated in its judgment which facts it had considered to be established as well as reasons for its conclusion. It also found that the absence of the witnesses in the first instance court proceedings did not infringe the applicant's rights since the witness statements given during the pre-trial investigation were verified lawfully and accordingly.

The applicant was represented by counsel throughout the first and second instance court proceedings.

On 12 December 2002 the applicant was transferred to the Brasa Prison.

On 28 February 2003 the applicant addressed the head of the Jelgava Police complaining that the conditions of the Temporary Detention Unit were unsanitary since two or three persons had to use one small lavatory as the other – the bigger – one was out of order. Further, he complained that there was no water available in the cells, and the water he brought himself from the lavatory was not boiled. He also alleged, *inter alia,* that there was bad air in the cells as there was no ventilation, that there was no place provided for walks outside, that there was basically no light in the cells and that the food was of a very poor quality.

On 11 March 2003 the head of the Jelgava Police answered the applicant's complaint of 28 February 2003 that he had informed the State

Police about the necessary renovation of the Detention Unit, however, since no financial means were allocated, renovation was impossible. He also informed the applicant that the nutrition in the Detention Unit was provided within the allocated financial means (1,50 LVL or approximately 2,13 EUR per prisoner per day) for this purpose by the State Police.

On 8 April 2003 the Criminal Chamber of the Supreme Court dismissed the applicant's cassation appeal on points of law, without summoning him for the hearing.

On 22 April 2003 the State Police informed the applicant that his complaint about the alleged unlawful behaviour of the police officers had been examined. The examination ascertained that the diagnoses of the medical expert stated light bodily injuries and trauma of the left hand, which could have resulted from a fight the applicant was involved in on 8 November 2000. In addition, it was stated in the judgment of the Jelgava Court of 24 October 2002 that there are no grounds to believe the applicant's allegations that the police officers subjected him to moral and physical torture since neither the applicant nor his counsel had complained about those unlawful actions prior to the court proceedings.

COMPLAINTS

1. The applicant complained under Article 3 of the Convention that he had been subjected to moral and physical torture during the pre-trial interrogation and his detention in the Temporary Detention Unit.

2. The applicant complained under Article 6 §§ 1 and 3 (d) of the Convention that he was denied a fair trial, in particular, because the witnesses, who gave their statements during the pre-trial investigation, were not summoned by the first and second instance courts and because he was not summoned for the hearing before the Criminal Chamber of the Supreme Court.

3. The applicant complained under Article 8 § 1 of the Convention that his right to correspond was infringed during his detention in the Riga Central Prison.

4. The applicant complained under Article 9 § 1 of the Convention that because of reasons unknown to him he was denied a possibility to attend the Riga Central Prison church.

5. The applicant complained under Article 14 of the Convention that he had been discriminated against by medical doctors of the Latvian prisons.

THE LAW

On 27 February 2006 the President of the Chamber communicated the applicant's complaints under Articles 3 and 9 § 1 of the Convention to the respondent Government under Rule 54 § 2 (b) of the Rules of Court. The Government submitted their observations on admissibility and merits on 9 June 2006.

By letter of 5 December 2006 the applicant informed the Court that he had received and read the Government's observations and requested compensation in the amount of 44 609 Latvian *lati.*

By letter of 20 February 2007 the applicant requested to discontinue the proceedings and to destroy his application. He stated *inter alia* that further proceedings would be senseless as the Court did not provide him with "an advocate" and an interpreter. Taking into consideration that he started to believe in God, the applicant forgave the Latvian Government, its officials and the persons hurting him. He requested to destroy his case file and asked to be excused for the time spent on his case.

Taking into consideration the applicant's request to discontinue the proceedings and having regard to Article 37 § 1(a) of the Convention, the Court observes that the applicant does not intend to pursue the application. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the further examination of this application. Accordingly, the application of Article 29 § 3 of the Convention to the case should be discontinued.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Santiago QUESADA
Registrar

Boštjan M. ZUPANČIČ
President