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

THIRD SECTION

DECISION

Application no. 34275/19
Nukri Bondoyevich PANTSULAI
against Russia

The European Court of Human Rights (Third Section), sitting on 8 October 2019 as a Chamber composed of:

Paul Lemmens, *President,*
Georgios A. Serghides,
Paulo Pinto de Albuquerque,
Dmitry Dedov,
Alena Poláčková,
María Elósegui,
Gilberto Felici, *judges,*

and Stephen Phillips, *Section Registrar,*

Having regard to the above application lodged on 7 June 2019,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Nukri Bondoyevich Pantsulai, was born in 1970 and identifies himself as an Abkhazian national. He was represented before the Court by Ms Y.Y. Drozdova, a lawyer practising in Georgiyevsk.

A. The circumstances of the case

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

3. The applicant spent most of the time between 1993 and 2018 serving his sentences of imprisonment in various penal facilities in Russia.

4. On 20 March 2018 the Ministry of Justice declared his presence in Russia undesirable. On 26 June 2018 the migration authority in Stavropol Region ordered his deportation. To date, no appeal has been made against that decision.

5. On 1 June 2018 the applicant was detained pending deportation by the Georgiyevsk Town Court of the Stavropol Region. On 28 September, 25 November and 18 December 2018 the period of detention was extended by the Town Court. None of these detention orders was challenged on appeal.

6. On 20 February 2019 the applicant's detention was repeatedly extended by the Town Court. The applicant's appeal against the detention order was dismissed by the Stavropol Regional Court on 20 March 2019.

7. There is no evidence that the applicant lodged cassation or supervisory review appeals.

B. Relevant domestic law

8. The provisions of Chapter 35 the Code of Administrative Procedure of 2015, which lay down the rules for cassation appeal review of final and enforceable judicial decisions, were previously reproduced in the case *Chigirinova v. Russia* ((dec.), no. 28448/16, §§ 9-23, 13 December 2016).

9. Chapter 28 of the Code provides specific rules for placement to specialised centres for aliens of persons facing deportation or readmission. It does not provide any special rules or exceptions to the above procedure of cassation appeal review.

COMPLAINTS

10. The applicant complained under Article 5 § 1 of the Convention about allegedly unlawful detention pending deportation.

THE LAW

11. Previously in the case *Chigirinova* ((dec.), cited above, §§ 28-30) the Court concluded that in cases concerning disputes regarding public authorities, any person who intends to lodge an application in respect of a violation of the rights under the Convention must, in addition to the ordinary appeal provided for by the Code of Administrative Procedure, use the remedies offered by the two-layer cassation procedure, since it constitutes an effective remedy capable of providing redress in cases examined under the Code of Administrative Procedure of 2015.

12. In the present case the applicant was placed in detention pending deportation under the judicial procedure prescribed by the Code. Most recently the detention order was issued by the Town Court on 20 February 2019 and the applicant's appeal against that order dismissed by the Regional Court on 20 March 2019.

13. Nothing in the present case indicates that the applicant lodged a cassation appeal against the above judgment, intended to do so, or was in any way prevented from lodging such an appeal.

14. Given that Chapter 28 of the Code does not provide any special rules or exceptions to the ordinary procedure of cassation appeal review for persons detained pending deportation or readmission, the Court concludes that the applicant did not exhaust the effective domestic remedies available to him. It therefore follows that this application must be rejected under Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 November 2019.

Stephen Phillips
Registrar

Paul Lemmens
President