

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

THIRD SECTION

DECISION

Application no. 8550/03
by Aleksandrs SAPOŽKOVS
against Latvia

The European Court of Human Rights (Third Section), sitting on 6 December 2011 as a Chamber composed of:

Josep Casadevall, *President,*
Corneliu Bîrsan,
Egbert Myjer,
Ján Šikuta,
Ineta Ziemele,
Nona Tsotsoria,
Kristina Pardalos, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 5 March 2003,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Aleksandrs Sapožkovs, is a permanently resident "non-citizen" of the Republic of Latvia who was born in 1959 and is currently serving his sentence in Jelgava Prison.

A. The circumstances of the case

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

1. The applicant's conviction and imprisonment

3. On 4 October 1999 the applicant was arrested on suspicion of murder.

4. On 28 February 2000 the case material was sent to a court for adjudication.

5. On 13 September 2002 the Rīga Regional Court convicted the applicant of aggravated murder, burglary and theft and sentenced him to fifteen years' imprisonment.

6. On 3 February 2003 the Criminal Chamber of the Supreme Court upheld the conviction for burglary and theft, acquitted the applicant on the charge of aggravated murder and convicted him of murder instead. The sentence was reduced to twelve years' imprisonment.

7. On 17 March 2003 the Senate of the Supreme Court dismissed the applicant's appeal on points of law in a preparatory meeting.

8. The applicant served his sentence in various prisons: Central Prison, Brasa Prison, Matīsa Prison, Jelgava Prison, Daugavpils Prison and Daugavgrīva Prison. It appears that the applicant was transferred from Daugavgrīva Prison back to Jelgava Prison on 1 July 2009.

9. In the meantime, on 18 October 2007 the applicant was convicted of having attacked a member of the prison staff. He was sentenced to six years and ten months' imprisonment.

2. Events of 1 July 2009 in Daugavgrīva Prison

10. On 1 July 2009 the applicant was subject to a search in his cell in view of his scheduled transfer to Jelgava Prison. The applicant had more than 30 kg of personal effects, which was the maximum, so he was asked to leave some things behind. It appears that a dispute ensued between the applicant and the prison staff. In the applicant's submission he was brutally beaten by three members of the prison staff until he fell to the ground unconscious. He received more blows when he regained consciousness.

11. Initially, no criminal proceedings in connection with these events were opened. However, upon a complaint by the applicant, on 9 and 17 September 2009 a prosecutor informed him that criminal proceedings had been opened and the material had been sent for investigation to the Prisons Administration (*Ieslodzījuma vietu pārvalde*).

12. On 17 November 2009 the applicant gave evidence to the investigator in person. He submitted that inspector A.F. had beaten him with a truncheon in a cruel manner. He had received blows to his jaw, the left side of his chest, both arms and other parts of his body; he could not remember the number of blows. Another inspector, M.B., and a sergeant whose name he did not know had joined in and they had delivered numerous blows to his body with truncheons. Eventually, he had lost consciousness and had fallen to the ground. After he had regained consciousness, inspector M.B. had continued to beat him with a truncheon.

13. On 4 January 2010 the applicant sent a handwritten testimony, dated 26 October or 1 November 2010, to the Prosecutor's Office with a view to having it added to the case material; it was forwarded to the investigative authority – the Prisons Administration. According to the applicant, inspector A.F. had delivered blows to his lower jaw and the left side of his chest. Blows to his arms had ensued as he had attempted to cover his face. He had then received an order to face the wall; another inspector, M.B., and an unknown sergeant had taken their truncheons and all three of them had started to deliver blows to his body in a cruel manner. He had fallen to the ground unconscious. After having had regained consciousness, he had sat with his back against the wall. Inspector M.B. had come forward and had started to beat him in the legs.

14. On 19 January 2010 a forensic medical examination of the applicant was ordered; it was completed on the same date. The applicant had the following bodily injuries: bruises and two ecchymoses on his back in the area of shoulder blades, a bruise and an ecchymosis on both the upper and lower left arm, a bruise and an ecchymosis on the lower right arm, a bruise and an ecchymosis (on the back) on the right thigh, a bruise and an ecchymosis on the lower right leg and skin abrasions on both legs.

15. On 28 January 2010 the applicant was declared a victim in connection with the criminal proceedings. He was interviewed and maintained his previous statements.

16. On an unknown date, the investigator heard evidence from witnesses and prison staff. Both inspectors, M.B. and A.F, were questioned. Two other members of prison staff were questioned, but not sergeant K.D., who had been present. Inspector M.B. testified that the applicant had issued threats to the three members of prison staff present and stated that he could kill anybody since he was a boxer. The applicant had then attempted to punch inspector M.B. with his right fist; he had been prevented from doing so by inspector A.F., who had hit him once with a truncheon. The applicant had not complied with an order to face the wall and inspector A.F. and sergeant K.D. had delivered five to ten blows with truncheons to the applicant's arms, legs and back to subdue him. Other members of the prison staff gave identical evidence.

17. In addition, another member of the prison security staff gave evidence to the effect that video surveillance cameras did not fully cover the relevant part of Daugavgrīva Prison. It stemmed from his submissions that the relevant recordings had been destroyed owing to the expiry of the prescribed storage time-limits.

18. On 11 March 2010, upon a complaint by the applicant, the investigative authority informed him that certain unspecified investigative measures were being taken by the senior investigator of Jelgava Prison.

19. On 15 June 2010, upon a complaint by the applicant, the investigative authority informed him that a procedural decision would be taken soon and that he would be informed of it as soon as it was adopted.

20. On 6 July 2010 the criminal proceedings were terminated with a decision; the applicant received it on the next day. The decision contained references to the applicant's testimony, the testimonies of the members of the prison staff and the results of the medical examination. In addition, reference was made to the testimony of an inmate, who was not an eyewitness to the events but who had overheard them. According to him, the applicant had received blows to his body while on the ground. It was concluded that on 1 July 2009 the members of the prison staff had not used excessive force on the applicant and that the special measure (the use of truncheons) had been applied following a procedure prescribed by law. Therefore, the officers had not exceeded their official powers. The criminal proceedings were terminated on the grounds of absence of a crime.

21. The applicant lodged several appeals against this decision with the prosecutor's office. They were dismissed in a final decision of 19 October 2010.

COMPLAINTS

22. In his first letter to the Court, posted on 5 March 2003, the applicant lodged several complaints under Article 6 of the Convention. He posted the completed application form on 16 April 2003 and maintained those complaints. In addition, he lodged complaints under Article 5 § 1 (c), Articles 5 § 3 and 6 §§ 1 and 3 of the Convention.

23. The applicant introduced various further complaints among other things about excessive use of force and conditions of detention in several prisons under Article 3 of the Convention. In particular, on 11 August 2009 the applicant alleged that he had been subjected to ill-treatment in Daugavgrīva Prison on 1 July 2009 and that the matter was not properly investigated.

THE LAW

A. Complaint concerning the alleged ill-treatment on 1 July 2009 and its investigation

24. The applicant complained that excessive force was used during the search of 1 July 2009 in Daugavgrīva Prison. He further complained about the investigation carried out into the matter.

25. The Court will examine these complaints under Article 3 of the Convention, which provides as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

26. The Court considers that it cannot, on the basis of the case file, determine the admissibility of the applicant's complaints and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

B. Other complaints

27. The applicant further complained under different Articles of the Convention about numerous violations of his rights.

28. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint under Article 3 of the Convention concerning the alleged ill-treatment on 1 July 2009 and its investigation;

Declares the remainder of the application inadmissible.

Marialena Tsirli
Deputy Registrar

Josep Casadevall
President