CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 45563/99
by Vladimir Nikolaevich ZHBANOV
against Bulgaria

The European Court of Human Rights (First Section), sitting on 13 December 2001 as a Chamber composed of

Mr C.L. ROZAKIS, *President*,
Mrs F. TULKENS,
Mr G. BONELLO,
Mrs N. VAJIĆ,
Mr E. LEVITS,
Mrs S. BOTOUCHAROVA,
Mrs E. STEINER, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having regard to the above application on 24 March 1998 and registered on 20 January 1999,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vladimir Nikolaevich Zhbanov, is a Russian national born in 1950 and living in Popovo, Bulgaria.

A. The circumstances of the case

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

On 16 February 1994 the applicant was interrogated as a suspect in the misappropriation of 20,000 Bulgarian Levs ("BGL") from a co-operative farm in liquidation.

On 16 November 1994 he was charged with having committed that crime.

On an unspecified date he was ordered to post bail in the amount of BGL 2,000. Under the applicable law an accused under bail may only leave the country upon the prosecutor's or court's permission.

On 23 February 1995 the applicant's apartment was attached. On the same date he was interrogated.

On 27 February 1995 the applicant was searched in the investigation office. On 1 March 1995 the applicant lodged a complaint with the Popovo Distric Public Prosecutor's Office, seeking the removal of the investigator. He was not informed about any measures undertaken.

On 13 March 1995 the applicant was detained on remand under an investigator's order. He was allegedly subjected to degrading and inhuman treatment during the detention: on 13 March 1995 the applicant was detained in a cell without water and under a low temperature; in the evening he was moved together with four other persons into completely dark premises not meeting the sanitary requirements. On 20 March 1995 the applicant was interrogated. On 21 March 1995 he was released on bail.

On 24 March 1995 the applicant lodged a complaint with the Popovo District Public Prosecutor's Office, the Targovishte Regional Public Prosecutor's Office and the Chief Public Prosecutor's Office, stating that the investigator in charge misused his powers and deliberately prolonged the criminal proceedings against him.

On 27 March, 4 April and 4 May 1995 the applicant was interrogated. Since then the investigator in charge has allegedly not undertaken any steps to finalise the criminal proceedings against the applicant.

Under a decree of 28 March 1996 of the Popovo Distric Public Prosecutor's Office the applicant was allowed to leave the country for a month and a half. The prosecutor in charge noted that the applicant had not obstructed the criminal proceedings against him and that there was no danger of absconding.

As of 8 February 2001 the criminal proceedings against the applicant were pending at the stage of the preliminary investigation. The prohibition against him leaving the country without prior permission of the prosecutor or the court was in force at least until January 2000, when the Code of Criminal Procedure was amended.

B. Relevant domestic law

Code of Criminal Procedure

Section 222

"(1) The preliminary investigation shall be completed and the case-file transferred to the Public Prosecutor's Office within two months of the opening date.

(2) ...

(3) If the preliminary investigation cannot be completed within the above mentioned period, the Regional Public Prosecutor's Office may prolong it up to six months; in exceptional cases the Chief Public Prosecutor can prolong it up to nine months..."

COMPLAINTS

1. The applicant complains under Article 6 § 1 of the Convention that the criminal proceedings against him have lasted unreasonably long.

2. The applicant complains under Articles 3 and 5 of the Convention that during the period 13 March - 21 March 1995 he was subjected to inhuman and degrading treatment and that he was unlawfully detained.

THE LAW

1. The applicant complains under Article 6 § 1 of the Convention that the criminal proceedings against him have lasted unreasonably long.

The Court considers that it cannot, on the basis of the file, determine the admissibility of the above complaint and that it is therefore necessary, in accordance with Rule 54 § 3 (b) of the Rules of the Court, to give notice thereof to the respondent Government.

2. The applicant complains under Articles 3 and 5 of the Convention that during the period 13 March - 21 March 1995 he was subjected to inhuman and degrading treatment and that he was unlawfully detained.

In the light of all the material in its possession, and in so far as this complaint falls within its competence, the Court finds that it does not disclose any appearance of a violation. It follows that this part of the

application 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 6 § 1 of the Convention about the length of the criminal proceedings against him;

Declares inadmissible the remainder of the application.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President