



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

FIRST SECTION

Application no. 24334/07
by Igor Vladimirovich SELTSOV
against Russia
lodged on 12 April 2007

STATEMENT OF FACTS

THE FACTS

The applicant, Mr Igor Vladimirovich Seltsov, is a Russian national who was born in 1968 and lived before his arrest in the Vladimir region, Russia. He is currently serving a prison sentence in correctional colony IK-7, Vladimir region.

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

A. The applicant's criminal conviction

In 2000 criminal proceedings were instituted against the applicant on suspicion of murder. The applicant alleges that police officers ill-treated him upon his arrest in 2000 and also in 2001 and that he did not receive any medical treatment after those beatings and his complaints of ill-treatment were never examined by the prosecutor.

By a final judgment of 20 November 2001 the Nizhniy Novgorod Regional Court convicted the applicant of a criminal offence and sentenced him to a term of imprisonment.

B. Alleged infection with HIV infection and related proceedings

In July 2002 the applicant was diagnosed with HIV infection. He alleges that he had contracted that infection during his stay in Vladimir remand prison IZ-33/1 ("remand prison") between March and July 2002.

In February 2007 the applicant brought a court action with the Leninskiy District Court of Vladimir (“the District Court”) against the remand prison for compensation of damage to health.

On 10 May 2007 the District Court examined the applicant’s case in a public hearing, but in the applicant’s absence. It dismissed the applicant’s claims in full. The applicant alleges that the District Court revealed to public the information about his HIV infection.

On 17 August 2007 the District Court granted the applicant’s request for reinstatement of time-limits for lodging his appeal against the decision of 10 May 2007.

On 18 September 2007 the Vladimir Regional Court upheld the decision of 10 May 2007. Regarding the applicant’s complaint about holding a public hearing in his case, the appeal court held that the applicant had not applied for a hearing in camera.

On 16 May 2007 the Prosecutor of the Vladimir region refused to initiate criminal proceedings against medical staff of the remand prison for alleged infection of the applicant with the HIV infection. It appears that the applicant did not appeal against that decision to a court.

C. Conditions of the applicant’s detention in correctional colonies

Between 8 August 2002 and April 2011 the applicant was held in correctional colony IK-6 (“colony no. 6”), Vladimir region. During his detention in colony no. 6 the applicant was on several occasions transferred to prison hospital at colony IK-3 (“colony no. 3”), Vladimir region, to undergo medical examination. Since April 2011 the applicant is being held in correctional colony IK-7 (“colony no. 7”), Vladimir region.

1. Conditions of detention in colony no. 6

The applicant was detained in unit no. 6. The living premises of unit no. 6 were very old and in a very bad state. The building accommodated about 170-200 detainees. It had no ventilation.

Until August 2008 the applicant lived in dormitory no. 1 situated on the first floor. It measured approximately 110-125 square metres and accommodated 77 detainees. The applicant shared the dormitory with detainees suffering from various infectious diseases, such as tuberculosis, herpes zoster and other diseases.

Sanitary facilities and kitchen were situated in another building. That building measured 40 square metres and was divided in several parts (toilet room, the lavatory, kitchen and shower room). The sanitary premises were not equipped with ventilation.

The toilet room measured 10 square metres and had only four toilets and one shower. In order to use these facilities the applicant had to wait his turn for a long time. The lavatory measured 11 square metres and had eleven faucets with cold water. There was no hot water at all. The kitchen measured eight square metres and had a small cooker. It was impossible for the applicant to cook food or to warm up food sent by his relatives.

The yard of unit no. 6 measured 250 square metres.

At some point the reparation works were carried out. As a result the surface of the toilet room and the shower room was increased, but the yard was reduced to 170 square metres.

In August 2008 the applicant was transferred to dormitory no. 2 of unit no. 6 which measured about 100 square metres and accommodated 64 detainees.

2. Conditions of detention in colony no. 3

Detainees, who were transferred to colony no. 3 to undergo a medical examination, were placed for a night in special cells for “newcomers” (so-called “gathering cells”). They were again placed in these cells on the eve of their departure.

The applicant was detained in gathering cells on four occasions: between 13 and 14 October 2007 in cell no. 1, between 31 October and 1 November 2007 in cell no. 2, between 2 and 3 February 2010 and between 24 and 25 March 2010. Conditions of detention in both cells were substandard.

Cell no. 1 measured six square metres and accommodated five detainees, including the applicant. The toilet was not separated from the rest of the cell. There were no windows or any electric light. There were no beds and the detainees were not provided with any other equipment to sleep on. They could not sleep on the floor either because it was very dirty or was full of insects. The applicant was not provided with food until 11 am on 14 October 2007.

Cell no. 2 measured nine square metres and accommodated six detainees, including the applicant. The conditions in that cell were very similar to those in cell no.1 described above.

In June and September 2009 the applicant complained to the Regional Prosecutor about the conditions of detention in gathering cells in colony no. 3.

On 19 October 2009 the Prosecutor replied that verification carried out in respect of the applicant’ complaints established that the “gathering cells” in colony no. 3 had not been equipped with sleeping places, the detainees had not been provided with bedding. The toilet had not been separated from the rest of the cell. The prosecutor informed the applicant that on 16 October 2009 he had sent a special indication to the head of colony no. 3 in order to eliminate all violations of domestic law regarding the conditions of detention.

3. Conditions of detention in colony no. 7

The applicant submitted that conditions of detention in that colony were substandard. However, he did not provide any further details in this respect.

D. Medical assistance provided to the applicant in correctional colonies

As stated above, in July 2002 the applicant was diagnosed with HIV infection. In 2003 he was diagnosed with chronic hepatitis B and C. Later he was diagnosed with a number of other serious chronic diseases.

The applicant alleges that he did not receive adequate medical treatment in colony no. 6. In particular, he alleges that colony no. 6 was not designed for HIV infected prisoners and therefore could not provide detainees with specialised treatment against HIV infection. He alleges that he was not provided with antiretroviral treatment and that he did not receive treatment for other diseases.

HIV detainees had access to medical staff of the colony three times per week. The in-patient service of the medical unit did not have enough space to admit detainees requiring treatment. The medical staff used out-to-date medicines to treat prisoners and as a result prisoners suffered from aggravations and intoxications.

The applicant underwent medical examinations in the prison hospital at the colony no. 3 in 2005, 2006, 2007 and 2010. However, in 2008 and 2009 no examinations were carried out.

The applicant alleges that he does not receive adequate medical treatment in colony no. 7 either. However, he did not provide any further details in that respect.

E. Alleged intimidation of the applicant by State authorities

The applicant alleges that after he lodged his application to the Court in 2007 the administration of colony no. 6 started persecuting him.

In July 2007 colony authorities imposed two disciplinary sanctions for failure to comply with internal rules. The applicant complained about those sanctions to the prosecutor, but the colony authorities did not send his complaints to the addressee.

On 20 July 2007 the applicant sent a letter to the Centre of International Protection in which he complained that he and his fellow prisoner Mr Rozyyev, who had also brought complaints to the Court, were persecuted by colony authorities. In particular, he submitted that following his complaints to head of colony Mr N., on 17 July 2007 he was invited for a meeting with head of the security unit Mr M and prison officers Mr L. and Mr Mi. Allegedly, they forced him to write an explanation. In that explanation he had submitted that colony authorities had had a talk with him during which they had explained him the procedure for carrying out searches and that he had no claims against colony administration. The applicant also claimed that colony authorities had imposed stricter discipline on the unit in which he and Mr Rozyyev had been held. He also submitted that colony staff frightened them with death.

Between 13 and 17 August 2007 the applicant was on hunger strike in order to protest against the actions of colony authorities.

On 13 September 2009 the prosecutor's office replied to the applicant's complaints that the disciplinary sanctions had been imposed on him in accordance with law.

F. Alleged interference by colony authorities with the applicant's correspondence

The applicant alleges that administration of colony no. 6 interfered with his correspondence with the Court. In particular, they opened the Court's

letters of 12 June and 6 September 2007 addressed to the applicant. Some of the Court's letters were handed over to the applicant with delays (letters of 3 August and 6 September 2007, letter of 15 September 2011). The applicant's letters were either sent to the Court with delays or were not sent at all.

On 25 June 2007 the applicant complained to the Prosecutor's office about the interference by colony administration with his correspondence with the Court.

On 24 and 26 October 2007 the Federal penitentiary service replied that the applicant's allegations had been partially substantiated and that there had been established that the authorities of colony no. 6 had opened the Court's correspondence addressed to the applicant.

The applicant also alleges that the colony administration did not dispatch a number of his complaints to the Federal Penitentiary Service and to the Prosecutor's office.

COMPLAINTS

A. Complaints under Article 3

1. The applicant complains that in 2000 and 2001 police officers ill-treated him to make him confess to murder and that he did not receive any medical attention after the alleged beatings.

2. He complains that while his stay in Vladimir remand prison no. 33/1 in 2002 he was infected with HIV infection.

B. Complaints under Articles 3 and 13

1. The applicant complains that he was detained in inhuman conditions in colony no. 6 between August 2002 and April 2011 and in gathering cells in colony no. 3 in October and November 2007 and in February and March 2010.

2. He complains that since April 2011 he is being detained in inhuman conditions in colony no. 7.

3. He complains that in colonies 6 and 7 he was not provided with adequate medical assistance.

4. He complains that he did not have effective domestic remedies in respect of his complaints of conditions of detention and the lack of medical assistance.

C. Complaints under Article 6

1. The applicant complains under Article 6 of numerous shortcomings in the criminal proceedings against him which ended in 2001.

2. The applicant complains that on 10 May 2007 the District Court examined his claims for compensation for damage to health in his absence and that his appeal against the decision of 10 May 2007 was returned to him as lodged out of time.

D. Complaints under Articles 8 and 34

1. The applicant complains that after he lodged his application to the Court in 2007, the authorities of colony no. 6 started persecuting him and putting pressure on him.

2. He complains that the authorities of correctional colony no. 6 opened correspondence from the Court addressed to him, handed it over to him with delays and did not register it in the journal of incoming correspondence;

3. He also complains that his letters to the Centre for International Protection and also to judicial bodies and other organisations were either sent with delays or opened and not sent at all.

4. The applicant complains that on 10 May 2007 the District Court revealed to public without his consent that he was HIV infected

5. He complains that authorities of correctional colonies disclosed to other detainees medical information on HIV infected detainees and did not take measures to keep that information secret.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in correctional colonies nos. 3, 6 and 7 in the Vladimir region compatible with Article 3 of the Convention?

The Government are requested to indicate the exact dates of the applicant's stay in the above-mentioned detention facilities and the cells/units in which he was detained. They are also requested to comment on all aspects of the conditions of detention in the above-mentioned detention facilities, as outlined by the applicant, with special emphasis on the overcrowding problem.

2. Did the applicant have at his disposal an effective domestic remedy for his complaint about the allegedly inhuman conditions of his detention in correctional colonies nos. 3, 6 and 7?

Has the medical assistance available to the applicant been compatible with Article 3 of the Convention (see *Kozhokar v. Russia*, no. 33099/08, §§ 105-116, 16 December 2010)? Has he had adequate medical supervision and assistance in correctional colonies nos. 6 and 7 in the Vladimir region? In particular:

(a) Has the applicant been examined by a hepatologist, an HIV specialist doctor and other specialists in infectious/other diseases?

(b) Has the applicant received treatment for his hepatitis B and C and other diseases? In the affirmative, has it been adequate for the applicant's condition? If not, on what dates and which doctors took a decision that antiviral treatment for hepatitis was unnecessary?

(c) Has the applicant received treatment for HIV? In the affirmative, has it been adequate for the applicant's condition? If not, on what dates and which doctors took a decision that antiretroviral treatment or opportunistic

infections prophylaxis was unnecessary or premature? How many times per year the applicant's CD4 count was measured?

4. Did the applicant have at his disposal an effective domestic remedy for his complaint about the alleged lack of adequate medical assistance in correctional colonies nos. 6 and 7 in the Vladimir region?

5. Regarding the alleged interference with the applicant's correspondence with the Court by the authorities of correctional colony no. 6 (Vladimir region), was there violation of the applicant's rights under Articles 8 and 34 of the Convention? The Government are requested to provide the following information:

(a) How many letters from the Court did the applicant receive while in detention in colony no. 6 and how many letters did he address to the Court?

(b) Were the Court's letters forwarded to the applicant in sealed envelopes and with all the enclosures? If not, why? Were the applicant's letters forwarded to the Court without being opened and read by the authorities? If not, why?

The Government are requested to provide an official record of the applicant's incoming and outgoing correspondence with the Court.

6. Having regard to the allegations of threats and pressure put on the applicant by the State authorities (as described in "The Facts" below), has there been any hindrance by the State in the present case of the effective exercise of the applicant's right of application, ensured by Article 34 of the Convention? In particular:

(a) Regarding the applicant's contacts with State officials on 17 July 2007 the Government are required to provide the following information:

- Did the above-mentioned meeting take place?

- If so, who took part in that meeting? Did the State officials meet with other detainees on that date? What was the purpose of that meeting and its content? Did the State officials ask the applicant any questions relating to his application to the Court? The Government are required to provide record of the above-mentioned meeting, if any, and also copies of the applicant's complaints to the head of the colony following which he was invited to a meeting on 17 July 2007.

(b) Regarding the disciplinary sanctions imposed on the applicant during his stay in colony no. 6, the Government are requested to provide a copy of the record of the breaches of discipline committed by the applicant since his arrival in that colony and the record of the sanctions taken against him.