



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

FIRST SECTION

Application no. 57350/09  
Yuriy Yuriyevich BELYAYEVSKIY  
against Russia  
lodged on 7 October 2009

**STATEMENT OF FACTS**

The applicant, Mr Yuriy Yuriyevich Belyayevskiy, is a Russian national, who was born in 1962 and lives in the town of Maykop, the Adygeya Republic.

**A. The circumstances of the case**

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

On 8 August 2009 the applicant was arrested on suspicion of having committed indecent acts in public, an offence under Article 20.1 § 1 of the Administrative Offences Act. The arresting officers drew a report on the administrative offence, describing the charge against the applicant.

At about 2 p.m. he was brought to the town police station and placed in a cell for administratively arrested persons (*“камера для административно задержанных”*).

The cell, designed for four persons, housed sixteen inmates. It had no forced ventilation and was full of cigarette smoke. Inmates were not provided with water or food.

The applicant remained in the cell until the next morning.

On 9 August 2009, at about 10 a. m., the applicant was brought before the Justice of the Peace of the 2<sup>nd</sup> Court Circuit of Maykop.

The applicant pleaded not guilty and asked to postpone the hearing and obtain the attendance of the witnesses against him. The judge rejected his request.

On the same day, 9 August 2009, the Justice of the Peace of the 2<sup>nd</sup> Court Circuit of Maykop convicted the applicant of indecent acts and sentenced him to one day's detention. It relied on the report on the administrative offence and written statements by witnesses.

The applicant appealed. He complained, in particular, that he had not been given access to the report on the administrative offence or to witness statements on which the Justice of the Peace had relied in its judgment. He further complained that the witnesses against him had not been questioned during the hearing. He asked that witnesses be questioned at the appeal hearing.

On 31 August 2009 the Maykop Town Court held an appeal hearing. The applicant, who had not been informed about the hearing date, did not attend. The court heard witness Mr P. who testified against the applicant and upheld the decision of 9 August 2009.

## COMPLAINTS

1. The applicant complains under Article 3 of the Convention about the allegedly inhuman conditions of his detention in the cell for administratively arrested persons.

2. The applicant complained that his detention from 8 to 9 August 2009 was unlawful.

3. The applicant complained under Article 6 §§ 1 and 3 of the Convention that the administrative offence proceedings against were unfair. In particular, he was denied access to the case materials, was deprived of an opportunity to question witnesses against him and was not informed of the date of the appeal hearing.

4. The applicant complains under Article 2 of Protocol No. 4 about a violation of his freedom of movement as a result of the authorities' refusal to issue him with a passport.

5. The applicant also complains about the alleged violations of his rights under Articles 8 and 14 of the Convention and Article 3 of Protocol No. 7.

## **QUESTIONS TO THE PARTIES**

1. Were the conditions of the applicant's detention in a cell for administratively arrested persons at the police station of Maykop compatible with Article 3 of the Convention? The Government are requested to comment on all aspects of the conditions of detention which the applicant complained of. They are requested to produce documents indicating the dimensions of the applicant's cell and the number of inmates, in particular an extract from the cell population register, and the layout plan of the cell indicating the placement of windows, toilets and furniture.

2. Were the administrative offence proceedings against the applicant fair, as required by Articles 6 §§ 1 and 3 (d) of the Convention. In particular, was the applicant given access to the case materials? Did he have an opportunity to question witnesses against him? Was he informed about the date of the appeal hearing?