



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

FIRST SECTION

Application no. 8460/10
Samit Tiflis Ogly GASYMOV
against Russia
lodged on 13 December 2009

STATEMENT OF FACTS

The applicant, Mr Samit Tiflis Ogly Gasymov, is an Azerbaijani national, who was born in 1982 and lives in Azerbaijan. He is represented before the Court by Mr E. Mezak, a human rights activist living in Syktyvkar in the Komi Republic.

A. The circumstances of the case

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

On 13 February 2009 the Koygorodskiy District Court of the Komi Republic convicted the applicant of the failure to obtain an immigrant registration and of working illegally without a work permit, offences under Articles 18.8 and 18.10 of the Administrative Offences Code, and ordered his administrative removal to Azerbaijan.

On 15 April 2009 the Koygorodskiy District Court ordered the applicant's detention pending administrative removal.

On 16 April 2009 the applicant was arrested and placed in the detention centre for administratively arrested persons in Syktyvkar where he remained until 8 July 2009.

The applicant was held in cell no. 6 which measured 12 sq. m and housed two or three inmates. The cell had no forced ventilation. It was not equipped with an emergency button. There was no curtains on the window and the applicant had difficulty sleeping because of the midnight twilight which started in the middle of May and continued until July. Moreover, he was waked up several times almost every night because new inmates were placed in neighbouring cells. They were often noisy.

Inmates had two meals a day. The food was insipid. The cell was equipped with toilet facilities which were separated from the living area by a partition and a curtain.

When the weather was fine, inmates were allowed to go out in the internal yard. There was no vegetation in the yard. No was there any sport equipment. The outdoor exercise was short.

On 30 June 2009 the Supreme Court of the Komi Republic quashed the administrative removal order of 13 February 2009. On 8 July 2009 the applicant was released.

The applicant complained about the conditions of his detention before the Syktyvkar Town Court. He relied on the provisions contained in Chapter 25 of the Code of Civil Procedure governing judicial complaints against decisions, actions or inactions on the part of State officials and authorities that has violated individual rights and freedoms or prevented or excessively burdened the exercise thereof.

On 13 July 2009 the Syktyvkar Town Court declared the complaint inadmissible. It found that Chapter 25 of the Code of Civil Procedure did not apply to official decisions, actions or inactions taken in the framework of administrative offence proceedings and directly related to them. Such actions could not be appealed against to a court under Chapter 25 of the Code of Civil Procedure and Russian courts had therefore no competence to examine such complaints.

The applicant appealed, relying on Resolution No. 2 of the Plenary Supreme Court of 10 February 2009. According to that resolution complaints about inhuman conditions of detention, including detention in the framework of administrative offence proceedings, were to be examined under Chapter 25 of the Code of Civil Procedure.

On 13 August 2009 the Supreme Court of the Komi Republic upheld the decision of 13 July 2009 on appeal.

COMPLAINTS

1. The applicant complains under Articles 3 and 13 of the Convention about the allegedly inhuman conditions of his detention and the absence of an effective remedy in that respect.

2. The applicant complains under Article 6 § 1 of the Convention about a violation of his right of access to court.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in the detention centre for administratively arrested persons in Syktyvkar 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.

2. Did the applicant have at his disposal an effective domestic remedy for the complaint under Article 3, as required by Article 13 of the Convention?

3. Was the applicant's "right of access to a court" under Article 6 § 1 of the Convention respected? In particular, taken into account the interpretation of Chapter 25 of the Code of Civil Procedure given in the Resolution No. 2 of the Plenary Supreme Court of 10 February 2009, what was the legal basis for the decision to declare the applicant's complaint about inhuman conditions of detention inadmissible?