



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

FIRST SECTION

Application no. 10615/08
Pavel Aleksandrovich PETROV against Russia
lodged on 15 February 2008

STATEMENT OF FACTS

The applicant, Mr Pavel Aleksandrovich Petrov, is a Russian national who was born in 1993 and lives in Cheboksary. He is represented before the Court by Mr O. Shamitov, a lawyer practising in Cheboksary.

A. The circumstances of the case

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

In November 2007 his classmate's mother accused him of theft. The applicant made no admissions. By a decision of 19 November 2007 the authorities held that the applicant's actions contained "elements of a criminal offence". However, the authorities refused to bring criminal proceedings because the applicant had not reached the age of criminal responsibility.

Instead, the same authority brought court proceedings in order to obtain a judicial order for placing the applicant in a centre for temporary confinement of juvenile offenders.

Allegedly, the applicant, his parents and their lawyer first learnt about the decision of 19 November 2007 in the course of the above court proceedings. The applicant and his parents were opposed to the applicant's placement in the centre for juvenile offenders.

In the meantime, the applicant challenged the decision of 19 November 2007 in separate court proceedings.

Without awaiting the outcome of such proceedings, on 11 December 2007 the Leninskiy District Court of Cheboksary ordered the applicant's placement into the above Centre for thirty days. The court held as follows:

“...Section 22 of the Federal Law on Preventive Measures for Minors allows placement of a juvenile offender in a specialised centre... This court has established that [the applicant] does not study properly without a reason, that he committed a reprehensible act before the age of majority... There is no reason to consider that the file in respect of him should be submitted to a commission for juveniles instead of placement in a centre...Having regard to the need to prevent re-offending, he should be placed in a centre for juvenile offenders for thirty days...”

On an unspecified date, the applicant was placed in the centre for juvenile offenders.

The applicant lodged an appeal on 13 December 2007. On 26 December 2007 the District Court submitted the file to Supreme Court of the Chuvashiya Republic.

In the meantime, the District Court upheld the decision of 19 November 2007. It was later confirmed on appeal.

Having examined the case file, on 9 January 2008 the President of the Supreme Court of the Chuvashiya Republic upheld the court order of 11 December 2007. The appeal court held as follows:

“...It transpires that [the applicant] has bad references from his school, which he did not attend regularly; that he is hot-tempered, at time aggressive toward his classmates or teachers...Therefore, the first-instance court has rightly concluded that there are good reasons for placing him a specialised centre...It has been established by the material in the file that he had committed a criminal offence...”

Apparently, there was no hearing before the President of this Court. In any event, the applicant and his counsel were not apprised of any such hearing and did not attend it.

On 11 January 2008 a copy of the appeal decision was sent to the applicant and his representatives.

The applicant was released on an unspecified date.

B. Relevant domestic law

Federal Law no. 120-FZ of 24 June 1999 on Preventive Measures in respect of Minors provided for the notion of “preventive measures” in respect of homeless children, minor vagrants or beggars, as well as minors who committed a criminal offence (section 5). The Law also provided for placement of a minor in a centre for juvenile offenders. A minor could be placed in such centre for the purpose of protecting his life, health and prevention of delinquency; the centre staff should carry out “preventive measures” in respect of the minor and transfer him to a specialised educational facility (section 22 § 2). A minor had to be kept in the centre for the time which was strictly necessary for his “further accommodation/placement” and, in any event, no longer than thirty days (section 22 § 6).

A court order for placement of a minor in a centre for juvenile offenders was amenable to an appeal before the President of the higher court (section 30). Such appeal was to be examined within ten days of its receipt.

COMPLAINTS

The applicant complains under Articles 5 and 6 of the Convention that he was declared “guilty” of a criminal offence by a non-judicial authority and that the civil court also referred to him as “guilty” of the criminal offence and, in substance, punished him for this offence; that he was not informed of the preliminary inquiry against him and could not examine any witnesses or otherwise defend himself.

The applicant also argues that his placement in the centre for juvenile offenders did not pursue any educational aim and, in substance, that such placement in the centre did not fall within the scope of the exceptions allowed under Article 5 § 1 of the Convention. Lastly, he alleges that the appeal against the placement order was not examined speedily, and that the defence was not informed of any appeal hearing and did not attend it.

QUESTIONS TO THE PARTIES

1. (a) Was the applicant deprived of his liberty within the meaning of Article 5 § 1 of the Convention (see *A. and Others v. Bulgaria*, no. 51776/08, § 62, 29 November 2011)?

(b) If yes, did the deprivation of liberty fall within paragraphs (a), (c) or (d) of this provision? If not, was there a violation of Article 5 § 1 of the Convention? In particular, having regard, inter alia, to section 20 of the Law on Preventive Measures for Minors, was the applicant detained “for the purpose of” educational supervision? Did he receive any such supervision in the centre for juvenile offenders (see, for comparison, *Ichin and Others v. Ukraine*, nos. 28189/04 and 28192/04, §§ 39-40, 21 December 2010)?

(c) Alternatively, was there a violation of Article 2 of Protocol No. 4?

2. (a) Was the applicant afforded an adequate opportunity to present his position in the court proceedings relating to his placement in the centre for juvenile offenders? If not, was there a violation of Article 5 § 4 of the Convention? Was it also violated on account of the examination of the applicant’s appeal by the President of the Supreme Court of the Chuvashiya Republic on 9 January 2008 in the absence of the applicant and his counsel or on account of the absence of an oral hearing before the President of this Court?

(b) Alternatively, was there a violation of Article 6 of the Convention on these accounts, either under its civil or criminal head?

(c) Was there a breach of the “speediness” requirement under Article 5 § 4 of the Convention on account of the length of the appeal proceedings in respect of the court order of 11 December 2007?

3. Was there a violation of Article 6 § 2 of the Convention on account of the statements made by the authorities, including courts, vis-à-vis the applicant in the present case? Was the applicant “proved guilty according to law”?