



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

FIRST SECTION

Application no. 2689/12
Aleksandr Yuryevich SEMIKHVOSTOV
against Russia
lodged on 28 December 2011

STATEMENT OF FACTS

The applicant, Mr Aleksandr Yuryevich Semikhvostov, is a Russian national, who was born in 1965 and is now serving his sentence in the correctional colony in the village of Yavas, Mordoviya Republic. He is represented before the Court by Mr V. Shukhardin and Ms N. Radnayeva, lawyers practising in Moscow.

The circumstances of the case

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

On 9 February 2001 the Solnechnogorsk Town Court of the Moscow Region found the applicant guilty of torture and manslaughter and sentenced him to thirteen and a half years' imprisonment,

As follows from documents provided by the applicant, prior to his arrest in October 1999 he completely lost vision in his left eye and the vision in his right eye was substantially impaired. In 1984 he was assigned a third-degree disability connected to his poor eyesight.

According to the applicant, during his detention in correctional colony no. 1 in the Mordoviya Republic in 2001 he was severely beaten up by warders, having received a serious spine injury leading to a partial paralysis of his lower extremities. The applicant started using crunches. He further submitted that subsequent ill-treatment, inadequate conditions of his detention and lack of proper medical assistance led to a drastic deterioration of his health: he developed an intervertebral hernia and an intravascular

tumor which, in their turn, resulted in the full paralysis of the lower part of his body.

In January 2010 the applicant was transferred to correctional colony no. 11 in the Mordoviya Republic, where he has been detained ever since.

The applicant was assigned to unit no. 5 which was not accommodated to house wheelchair-bound inmates, such as the applicant. The unit dormitory did not have a shower room and its lavatory room was not adapted for disabled persons: lavatory pans were not at the floor level and did not have railings. The applicant always asked assistance from at least two inmates, as he was unable to use the lavatory unassisted. Not every inmate was willing to help which added frustration and embarrassment to the already sensitive situation for the applicant who suffers from enuresis and encopresis. The colony administration has never assigned him or provided him with any form of help to assist him in the performance of his everyday tasks.

The applicant gives the following description of the conditions of his detention. A large number of two-tier beds were installed in the dormitory. The dormitory was dimly lit as the beds blocked windows. Ninety inmates who occupied the dormitory shared a long sink, two metres long wide and four metres long. The applicant was able to use a washing room once a month when an inmate agreed to take him there on the wheelchair. Passage routes through the colony territory were separated by barriers approximately twenty-centimetre high. The applicant therefore required assistance by at least two inmates to carry him in the wheelchair over the barriers. For instance, in December 2010 and January 2011 the applicant was unable to find a person willing to carry him to the washing room.

The washing room also did not have any equipment to accommodate a disabled person such as the applicant. The shower heads were installed too high and the applicant again needed help with taking a shower. Once again, the help was not granted willingly as inmates were afforded fifteen minutes to take the shower and they were not willing to spend that time on the applicant.

The applicant was not allowed to use electric equipment, particularly that for boiling water, which he desperately needed to keep himself proper in view of his suffering from urinary and faecal incontinence.

The applicant could not go to the colony canteen to eat, so he was forced to eat in the dormitory, being given food by inmates. The applicant had to pay for that service with cigarettes. In November 2010 he did not eat for seven days as the food was given in a dirty tableware.

In January 2011 the applicant was not served with food three times a day. A colony cook was assigned the task of bringing food to the applicant from the colony canteen. However, given that he was too busy with his usual tasks or in view of the fact that the food was scarce, the applicant frequently did not receive any food.

In September 2011 the applicant started receiving food in a plastic bowl from mayonnaise which was never washed or cleaned. He experienced stomach poisoning, stomach pain, swallowing of the face, legs and arms, etc. The applicant's requests to provide him with the food in a suitable tableware were disregarded.

On 13 December 2011 the applicant was assigned a first degree disability, having been diagnosed with paraplegia.

The applicant provided the Court with written statements by his former inmates to describe conditions of his detention. In particular, inmate K. stated as follows:

“Since 21 June 2005, in correctional colony no. 7 in the Morodoviya Republic, I witnessed the inhuman treatment [of the applicant], as his legs were paralysed, he could not move them, they were not working, he was forced to stay at his sleeping place all the time. He was not provided with an assistant, [and] he was not assigned a disability. He used a bottle as a lavatory pan, occasionally in the dormitory, having created additional discomfort for himself and others around him”.

Similar statements were given by another inmate, P.

Having been assigned the disability, the applicant was transferred to the medical unit of the correctional colony.

In December 2011 the applicant fell sick, having been unable to eat for three days. He had a fever, he vomited and urinated blood and he had a constant pain in the liver, kidneys and bladder. His back hurt. The applicant’s complaints to the head of the medical unit or attending doctors are to no avail.

On 21 December 2011 the applicant’s representatives from an NGO “Fund in Defence of Inmates’ Rights” lodged an application with the Polyanskiy District Court of the Mordoviya Republic, seeking the applicant’s release on health grounds. The representatives enclosed to their application a long list of illnesses from which the applicant suffers, including paraplegia, ophthalmatrophia of the left eye, astigmatism of the right eye, a renal cyst, epilepsy, acute viral hepatitis C, osteochondrosis of the lumbosacral section of the spine, complicated by the formation of hernia and tumor, and so on.

Following the receipt of the complaint, the District Court authorised a forensic medical examination of the applicant to determine whether he was fit to continue serving his sentence. In the end of January 2012 the applicant was transferred to a medical colony for that purpose.

The outcome of the court proceedings is unknown.

In the beginning of February 2012 the applicant was transferred back to colony no. 11 where he was again admitted to unit 5. The applicant provided an identical description of the conditions of his detention, save for minor details. In particular, he argues that a hundred inmates share the dormitory of sixty square metres in the unit. Thirty-five inmates suffer from HIV infection, various stages of tuberculosis or have various disabilities. The applicant cannot have outside walks, as he cannot get into the wheelchair without assistance and leave the dormitory in which the passage way is too narrow for the wheelchair. Lavatory pans are installed on a pedestal forty centimetres above the floor, being separated from each other with partitions. The applicant can therefore only use the toilet with assistance of at least two inmates. He always receives cold food in plastic bowls. There is no possibility to heat it in the dormitory. Eight stairs lead to the entrance of the washing room, making it impossible for the applicant to use the room unassisted. His wheelchair is taken from him in the dormitory for security reasons.

The applicant and his representatives lodged a large number of complaints with various authorities. In particular, on 10 December 2010 a deputy prosecutor of the Dubravnyaya District prosecutor’s office sent a

letter to the applicant informing him that the legal norms regulating conditions of detention in penitentiary facilities do not provide for a possibility to install an access ramp. However, on the prosecutor's request the ramps were installed at the entrance to the dormitory where the applicant lived at the time. The deputy prosecutor further noted that the applicant received food in the dormitory having been served by an inmate on duty who had brought it from the colony canteen. No remuneration was asked for that service and the food was brought in the proper tableware and was adequate.

The applicant received similar letters from various officials in 2010 and 2011.

On 16 January 2012 a request to institute criminal proceedings was sent to the Investigation Department in the Mordoviya Republic. That request was forwarded to the local investigation unit and the prosecutor's office. No response followed.

COMPLAINTS

The applicant complained under Articles 3 and 13 of the Convention about the extremely poor conditions of his detention, unsuitable for a wheelchair-bound inmate, and a lack of effective remedies to complain about that situation.

QUESTIONS TO THE PARTIES

1. Regard being had to the applicant's disability and, in particular, his being confined to a wheelchair, were the conditions of his detention in correctional colony no. 11 since January 2010 compatible with Article 3 of the Convention? In particular,

(a) was it an established practice to keep detainees, suffering from a disability and/or a number of serious illness, in ordinary correctional colonies?

(b) what were rules governing detention of disabled detainees during their serving sentences of imprisonment?

(c) were any specific measures taken by the colony administration to accommodate the applicant, a disabled detainee, and if so, what steps were taken, when and by whom?

(d) was the applicant given assistance in exiting/entering buildings within the facility, moving within the colony territory, using canteen, lavatory and washing rooms, etc.; and if so, when and by whom was assistance given, what form did the assistance take, and were any persons, other than those assisting the applicant, present?

2. The Government are requested to comment on all aspects of the conditions of detention which the applicant complained of in respect of correctional colony no. 11. In particular,

(a) How many inmates were in the applicant's dormitory and was there a sufficient number of sleeping places in the dormitory?

(b) Was the dormitory adequately ventilated?

(c) Was there an adequate supply of drinking water?

(d) Was the number of water taps and toilet pans sufficient to cater adequately to the sanitary needs of the detainees, and in particular, disabled detainees?

(e) Were the sanitary facilities in a good state of repair?

(f) What was the quality of the food served?

The Government are requested to produce documentary evidence, including population registers, the colony and dormitory plans, floor plans, day planning, colour photographs of the dormitory, its lavatory room, the colony washing room, the canteen, and other facilities frequently used by inmates in their everyday life and, in particular, photographs showing access to those facilities, as well as reports from supervising prosecutors concerning the conditions of detention in the colony.

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