



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

29 August 2012

FIRST SECTION

Application no. 58179/09  
Artem Andreyevich YARULLIN  
against Russia  
lodged on 2 October 2009

**STATEMENT OF FACTS**

The applicant, Mr Artem Andreyevich Yarullin, is a Russian national, who was born in 1985 and lives in Kazan.

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

**A. Alleged ill-treatment by police at the Privolzhskiy District sobering-up centre of Kazan**

On 29 June 2008 at around 4.00 a.m. the applicant, a young man of 23 years old at the material time, was approached by two police officers at the bus stop “Mavlyutova” in Kazan where he was waiting for a car to go to the city centre. The applicant was under the influence of alcohol. The police officers did not apparently introduce themselves and told him that he had to follow them to the police station in order to check his identity papers and his mobile phone.

After a short questioning at the police station, the police officers withheld some of the applicant’s belongings including his keys and mobile phone and put him in a cell. During his detention, which lasted about 40 minutes, the applicant kept on asking for permission to call his parents but the police officers refused and told him “to shut up”. Nor did they call the applicant’s parents themselves.

At around 6.00 the applicant was brought by police to the sobering-up centre of the Privolzhskiy District Police Department (“*RUV D*”) in Kazan. He reiterated his requests to allow him making a phone call to his parents.

Following the applicant's insistent demands he was subjected to brutal physical coercion by a policeman on duty, which resulted in a fracture of the applicant's right shoulder. The applicant later learnt that the policeman's name was I. S.

On the same day the applicant was taken to the Medical Emergency Centre no. 1 of Kazan where he stayed until 2 July 2008 for medical care. The medical certificate confirmed the fracture of the applicant's right shoulder.

### **B. Refusal to open criminal proceedings in respect of the applicant's allegations of ill-treatment by police**

On 2 July 2008 the applicant requested criminal proceedings to be brought against the police officer who injured him in the sobering-up centre.

On 14 July 2008 his request was dismissed by the senior investigator M. Kh. of the Central Interdistrict Department of the Investigation Committee. Referring to the video footage of the events, he found that the use of force against the applicant was justified by his attempt to leave the sobering-up centre without permission.

On 24 October 2008 the applicant challenged the lawfulness of the investigator's decision in the Vakhitovskiy District Court of Kazan, arguing that the use of force was a disproportionate response to his legitimate request to call his next-of-kin.

On 31 October 2008 the Deputy Prosecutor of Kazan acknowledged of his own motion unlawfulness of the investigator's decision of 14 July 2008 and sent the case for review to the Head of the Central Interdistrict Department of the Investigation Committee, who quashed the impugned decision on 6 November 2008. He found that additional investigative steps should include the consultation of the sobering-up centre's register (*журнала доставленных из медвытрезвителя*), the ambulance call records (*карточка вызова бригады скорой помощи*) and the questioning of the applicant's cellmates.

On 10 November 2008 the Vakhitovskiy District Court of Kazan discontinued the proceedings, noting that the impugned decision had already been quashed. However, on 15 November 2008 the senior investigator S. N. of the Central Interdistrict Department of the Investigation Committee again refused to open criminal proceedings against the policeman. The decision was very similar to the one delivered on 14 July 2008 and contained no new element.

On 9 February 2009 the applicant challenged the lawfulness of the latter decision in court. However, the Head of the Central Interdistrict Department of the Investigation Committee again preceded the court proceedings by quashing the impugned decision on 5 March 2009. As a result the Privolzhskiy District Court of Kazan discontinued the proceedings by a decision of 6 March 2009, following which the senior investigator S. N. of the Central Interdistrict Department of the Investigation Committee reiterated his refusal to open criminal proceedings on 14 March 2009.

The same events were repeated once again following the applicant's new complaint lodged against S. N.'s decision with the Privolzhskiy District Court of Kazan. The senior investigator's decision of 14 March 2009 was

quashed by the Head of the Central Interdistrict Department of the Investigation Committee on 25 May 2009; the Privolzhskiy District Court of Kazan discontinued the proceedings regarding the applicant's complaint on 26 May 2009; however, another investigator V. G. of the Central Interdistrict Department of the Investigation Committee again decided on 6 June 2009 in virtually identical terms that no criminal proceedings should be brought against the policemen.

The decision of 26 May 2009 by the Privolzhskiy District Court of Kazan was upheld on appeal by the Supreme Court of the Republic of Tatarstan on 10 July 2009.

On 11 June 2009 the applicant's lawyer unsuccessfully requested the Head of the Central Interdistrict Department of the Investigation Committee to allow her access to the documents concerning the inquiry conducted into the applicant's complaint against the police. Following her complaint the Privolzhskiy District Court of Kazan found on 3 August 2009 that failure to reply to the lawyer's request by the Head of the Central Interdistrict Department of the Investigation Committee was unlawful.

## COMPLAINTS

The applicant complains under Articles 3 and 13 of the Convention of torture and ill-treatment by police and of the lack of effective investigation into those abuses.

### **QUESTIONS TO THE PARTIES**

1. When exactly was the applicant apprehended by police on 29 June 2009, brought to the police station and then transferred to the sobering-up centre? What were the legal grounds and reasons for this apprehension and detention at each moment of time? What was the level of alcohol in the applicant's blood when he was brought to the sobering-up centre? When exactly was the applicant released from the sobering-up centre?

2. Was the applicant subjected to torture, inhuman or degrading treatment or punishment by police officers on 29 June 2008, in breach of Article 3 of the Convention?

In answering that question the Government are requested to address, *inter alia*, the following points:

(a) Once in the hands of the police:

(i) Was the applicant informed of his rights? If so, when, and what rights was he informed about?

(ii) Was he given the possibility of informing a third party (family member, friend, lawyer, etc.) about his detention and his location and, if so, when? If not, on what ground and for what reason were the applicant's repeated requests for telephone contact with his parents denied and why the police officers did not inform the applicant's parents of their own motion?

(iii) Was he given access to a doctor and, if so, when and was his medical examination conducted out of the hearing and out of sight of police officers and other non-medical staff?

(b) Did the police officers who apprehended the applicant and took him to the police station and to the sobering up centre act lawfully, given that they failed to identify themselves and withheld his personal belongings, including his mobile phone, thus preventing him from calling his next-of-kin?

(c) What activities were conducted in the applicant's respect during his detention on 29 June 2008 at the police station and the sobering-up centre? If the applicant was initially detained as a criminal suspect, was he informed by police of his right to be assisted by a lawyer?

3. Having regard to the procedural protection from torture, inhuman or degrading treatment or punishment (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), did the investigation conducted by the domestic authorities into the present case comply with the requirements of Article 3

of the Convention (see, among many others, *Mikheyev v. Russia*, no. 77617/01, §§ 108-110 and 121, 26 January 2006)? In particular:

(a) What investigative steps were taken? Did the investigators take additional steps ordered by the Head of the Central Interdistrict Department of the Investigation Committee on 6 November 2008, such as consultation of the extracts from the sobering-up centre's register (*журнал доставленных из медвытрезвителя*), the ambulance call records (*карточка вызова бригады скорой помощи*) and questioning the applicant's cellmates?

(b) did the investigators who handle the applicant's case enjoy the necessary independence from those who allegedly ill-treated the applicant?

4. In answering each of the above questions the Government are requested to submit the relevant documents in support, and in particular the following:

(a) any official order or decision on the basis of which the applicant was held at the police station, deprived of his mobile phone and other belongings and brought to the sobering-up centre;

(b) all extracts from the sobering-up centre's register concerning the applicant;

(c) all medical documents showing the degree of alcohol in the applicant's blood at any moment of his detention;

(d) the video footage of the events of 29 June 2008 to which the senior investigator M. Kh. of the Central Interdistrict Department of the Investigation Committee referred in his decision of 14 July 2008 before concluding that the use of force against the applicant was justified;

(e) all medical and forensic documents relating to the injuries resulting from the applicant's alleged ill-treatment by police on 29 June 2008, including the ambulance call records (*карточка вызова бригады скорой помощи*) made at the sobering-up centre.