



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

FIRST SECTION

Application no. 34917/06
Sergey Yuryevich FORSOV
against Russia
lodged on 16 August 2006

STATEMENT OF FACTS

The applicant, Mr Sergey Yuryevich Forsov, is a Lithuanian national, who was born in 1977.

A. The circumstances of the case

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

On 1 October 1997 a Lithuanian court ordered the applicant's arrest or/and detention in relation to a criminal case of theft.

The applicant was arrested in Bryansk (Russia) on 28 February 2005 in unspecified circumstances. The Lithuanian authorities confirmed to their Russian counterparts that the applicant was (still) wanted by them under criminal charges and that they intended to seek his extradition.

On 2 March 2005 a Russian prosecutor ordered the applicant's detention, referring to Article 466 § 2 of the Russian Code of Criminal Procedure (CCrP). The detention order did not specify any period of detention. Nor did it indicate that it was amenable to appeal.

Subsequently, no extension orders were issued by a prosecutor or a court.

On an unspecified date, the Russian authorities received a formal extradition request from the Lithuanian authorities.

On 6 September 2005 the Russian Prosecutor General's Office issued an extradition order.

In or around October 2005 the applicant was provided with legal assistance.

The applicant's lawyer sought judicial review of the extradition order.

On 2 November 2005 the Bryansk Regional Court confirmed the extradition order. It follows from the text of the judgment that it was amenable to an appeal before the Supreme Court of Russia within seven days of its delivery.

On 7 November 2005 the applicant received a copy of this judgment.

On 14 November 2005 he lodged a statement of appeal. For unspecified reasons, the lawyer did not appeal.

On the same day, the Regional Court refused to process it as belated and dismissed the applicant's request for restoring a time-limit for an appeal. The court rejected the applicant's allegation that a staff member of the detention facility had told him that the relevant period started to run from the date of receipt of a court decision.

On 12 April 2006 the Supreme Court of Russia confirmed that the applicant had missed the time-limit for an appeal.

The applicant submits that he was detained in unsatisfactory conditions in a detention centre, in particular he had to share a cell of fifty square metres with some thirty-four other inmates. In the applicant's submission, no adequate medical assistance was provided to him, despite some serious diseases.

On 20 May 2006 the applicant was surrendered to the Lithuanian authorities.

B. Relevant domestic law and practice

On 14 June 2012 the Plenary session of the Supreme Court of Russian issued a ruling clarifying various issues relating to extradition cases.

Under this ruling, before receipt of an extradition request detention may be authorised "when provided for by an international treaty". Such authorisation should be given by a Russian court (points 18-19). When an extradition request is accompanied by a detention order issued by a judicial authority of the requesting State, a prosecutor may order detention up to two months. Such detention should be then extended by a court (point 21). The prosecutor's detention order is amenable to judicial review under Article 125 of the CCrP.

In any event, even where there is a foreign detention order the prosecutor may seek judicial authorisation of detention and a court should examine this application (point 22).

COMPLAINTS

The applicant complains under Article 3 of the Convention that he was detained in appalling conditions in a Russian detention centre and that he was not provided with medical assistance.

The applicant also complains under Article 5 of the Convention that after his arrest and for some eight months he was not provided with any legal assistance; the legal assistance provided to him later on was ineffective. The applicant argues that his detention was unlawful, in particular because there were no extensions of his detention by a Russian court.

Lastly, the applicant complains that he could not appeal against the first-instance judgment concerning the extradition order.

QUESTIONS TO THE PARTIES

Was there a violation of Article 5 § 1 of the Convention in the present case? In particular:

- What was the legal basis under Russian law for the applicant's arrest? Was the quality of domestic law in this respect in conformity with the requirements of Article 5 of the Convention?

- Did Articles 108 and 466 of the Code of Criminal Procedure apply for the arrest and during the period of detention before receipt of the extradition request? If not, what was the legal basis for the prosecutor's detention order in the present case? Did the absence of a detention order issued by a Russian court render the applicant's detention in breach of Russian law and Article 5 of the Convention?