



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

FIRST SECTION

Application no. 12892/08
Timur Ravilyevich GAYAZOV
against Russia
lodged on 16 March 2008

STATEMENT OF FACTS

The applicant, Mr Timur Ravilyevich Gayazov, is a Russian national, who was born in 1978. He lived, before his arrest, in Volgograd. He is currently serving an imprisonment sentence in correctional colony IK-8, Republic of Tatarstan.

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

A. Criminal proceedings against the applicant

On 4 September 2005 the applicant was arrested on suspicion of robbery and murder of a judge. On the same date the investigator in charge of the case authorised the search of the applicant's apartment. The applicant alleges that his arrest and search of his apartment were unlawful.

On 5 September 2005 the Tsentralnyy District Court (Volgograd) held that the search carried out in the applicant's apartment had been lawful. That decision entered into force on 16 September 2005.

On 6 September 2005 the District Court remanded the applicant in custody. The applicant remained in detention pending investigation and trial.

On 28 May 2007 the Volgograd Regional Court ("the Regional Court") found the applicant guilty of a number of criminal offences and sentenced him to twenty-two years' imprisonment.

On 1 November 2007 the Supreme Court of the Russian Federation decreased the applicant's sentence to twenty-one years and six months.

Between 4 September 2005 and 3 December 2007 the applicant was held in remand prison IZ-34/1 (Volgograd). He alleges that conditions of his detention there were substandard.

In November 2008 the applicant complained to the Regional Court that he had not been provided with a copy of the decision of 5 September 2005 by which the search of his apartment had been found lawful and therefore could not appeal against it within the prescribed time-limits. He asked to quash the decision of 5 September 2005 as unlawful.

By a final decision of 16 June 2009 the Regional Court refused to accept the applicant's appeal for examination on the merits as lodged out of time. The court held that the applicant had not submitted a formal request for restoration of time-limits for lodging his appeal.

B. Ill-treatment in correctional colony IK-9 (Volgograd region)

1. Events of 3 December 2007

On 3 December 2007 the applicant was transferred to correctional colony IK-9 (Volgograd region) to serve his sentence.

The applicant submits that when he and other convicted persons were descending the bus colony staff started beating them with truncheons and ordered them to run as if they were animals. The applicant refused to obey them and was immediately placed to a punishment cell.

In the evening of the same day seven colony officers took the applicant out of his cell, put his hands behind his back and handcuffed him. They searched him and then kicked him down on the floor and started beating him with rubber truncheons. They were beating mostly his heels and posteriors. During those beatings the applicant lost consciousness several times. Afterwards the officers dragged him to the basement of the building. There they hang him up with his legs to the ceiling and continued beating his heels and posteriors with truncheons. During those beatings the applicant lost consciousness on three occasions and each time the officers poured cold water into his mouth to make him revive. The officers were laughing at him and took several photos of the beatings.

After the beatings the officers brought the applicant back to the punishment cell and left him there in handcuffs. The handcuffs were taken off half an hour later.

2. Events of 7 December 2007

On 7 December 2007 the applicant again refused to obey the orders of the colony officers. They took him out of the cell and stroke him with a truncheon on a running sore on his posterior. The pain was so strong that the applicant fell down on his knees. He could not walk and the officers forced him to go on his hands and knees back to his cell. The applicant decided to put an end to his sufferings and opened veins on his left arm.

On 14 December 2007 the applicant's parents arrived to the colony. However, they were not allowed to see the applicant and did not receive any information about him.

3. Medical assistance provided to the applicant in colony IK-9

The applicant alleges that as a result of the treatment inflicted on him on 3 and 7 December 2007 he received very serious injuries on his heels and

posteriors which were bleeding intensively. However, despite the seriousness of his injuries, medical staff of the colony did not provide him with adequate medical assistance.

After the beatings the applicant was left in a punishment cell. His injuries were not disinfected and he lost a lot of blood.

On 3 December 2007 a medical assistant examined him in his cell and recorded extensive hematomas on his posteriors.

On 4 December 2007 the applicant was examined by a prison doctor in the medical unit of the prison. The doctor recorded extensive hematomas on his posteriors and on his wrists.

On 8 December 2007, after his suicide attempt, the applicant was again examined by a doctor.

It was not until 19 December 2007 that the applicant was transferred to a prison hospital (LIU-15, Volgograd) to treat his injuries. Upon arrival to the hospital the applicant was diagnosed with an important blood deficiency.

The applicant submits that several surgeries were carried out on his posteriors. However, the transplantation of tissues was no longer possible because of delays in his hospitalisation.

On 22 April 2008 the applicant's treatment in the hospital was terminated and he was transferred back to colony IK-9.

4. Evidence submitted by the applicant

The applicant provided the Court with written testimony by his co-detainees K. and A. who confirmed his account of events of 3 and 7 December 2007.

He also provided a handwritten copy of his medical file.

C. The applicant's attempts to have criminal proceedings instituted against the colony staff

On 28 December 2007 the applicant's mother complained to the General Prosecutor's Office of the Russian Federation that her son had been severely beaten up by staff of colony IK-9. She asked to carry out an independent investigation into those events and order a medical examination of her son.

On 1 January 2008 investigator G. from the local department of the Investigative Committee heard the applicant about the events of 3 and 7 December 2007. The applicant described him in detail how he had been beaten up by the colony officers on those dates.

On 2 February 2008, following the interview with the applicant, investigator G. informed his superior that it was impossible to carry out the applicant's medical examination because the latter was undergoing treatment in the prison hospital.

On 4 February 2008 investigator G. refused to initiate criminal proceedings against the colony officers. He heard the applicant, the colony officers, the medical assistant, who had examined the applicant on 3 and 8 December 2007, deputy head of the colony and two detainees from the colony.

The colony officers, as well as the deputy head of the colony submitted that the physical force and special measures (rubber truncheons) were applied to the applicant in accordance with law for his refusal to comply

with their lawful demands. In particular, he refused to be searched before his placement in the punishment cell. The use of force was immediately reported to the head of the colony. Medical staff of the colony examined the applicant and concluded that there was no need for his hospitalisation.

The medical assistant, who had examined the applicant on 3 and 8 December 2007, submitted that on 3 December she had recorded extensive hematomas on his posteriors and on 8 December she had provided him with medical assistance after he had cut his forearms.

The applicant's co-detainees Ku. and S. confirmed that the applicant had refused to comply with officers' orders.

Having regard to the above and also to the results of the verification carried out into the use of physical force and special means to the applicant, the investigator came to the conclusion that there were no grounds to open criminal proceedings in respect of colony officers on charges of abuse of power. In particular, the decision stated that the applicant received his injuries as a result of the use of physical force and special means by the colony officers and also as a result of his attempt to commit a suicide. However, the officers had applied those means in accordance with law for the applicant's failure to comply with their lawful orders. The handcuffs had been put on the applicant in accordance with law, since he was heavily built, showed resistance and intended to injure himself.

On 3 March 2008 the applicant's mother submitted another complaint to the General Prosecutor's Office. She complained, in particular, that after the alleged beatings on 3 and 7 December 2007 her son had not been provided with medical assistance. His injuries had not been disinfected and he had been left in the punishment cell for another sixteen days. As a result, he had lost a lot of blood and his injuries had got infected.

On 21 May 2008 the decision of 4 February 2008 was quashed and the matter was remitted for an additional investigation on the grounds that no expert examination had been carried to determine the seriousness of the applicant's injuries. The decision stated that the applicant's treatment in the prison hospital had been terminated and therefore it was possible to carry out a medical examination.

By decisions of 3 July and 13 September 2008 investigators G. and K. respectively refused to initiate criminal proceedings against colony officers on the same grounds as before.

On 19 February 2009 investigator K, having regard to the testimony by persons heard by investigator G. in 2008 and also to the expert reports issued in June 2008 and February 2009, decided that there were no grounds to open criminal proceedings in respect of police officers.

By a final decision of 21 July 2009 the Regional Court dismissed the applicant's complaint against the decision of 19 February 2009.

D. The applicant's transfer to another correctional colony

In October 2009 the applicant was transferred to correctional colony IK-19, Republic of Tatarstan.

Since 2011 the applicant is serving his sentence in correctional colony IK-8, Republic of Tatarstan.

COMPLAINTS

1. The applicant complains under Article 3 that:
 - (a) conditions of his detention in remand prison IZ-34/1 (Volgograd) between September 2005 and December 2007 were inhuman and degrading;
 - (b) on 3 and 7 December 2007 the officers of correctional colony IK-9 (Volgograd region) tortured him;
 - (c) the medical staff of colony IK-9 did not provide him with adequate medical assistance after the beatings of 3 and 7 December 2007;
 - (d) the domestic authorities did not carry out an effective investigation into his complaints about the alleged beatings of 3 and 7 December 2007 and lack of medical assistance.
2. The applicant complains under Article 5 that his arrest on 4 September 2005 was unlawful.
3. He complains under Article 6 that:
 - (a) the criminal proceedings against him were unfair;
 - (b) the domestic courts refused to examine his appeal against the decision of 5 September 2005;
4. He complains under Article 8 that the search carried out in his apartment on 4 September 2005 was unlawful.

QUESTIONS TO THE PARTIES

1. As regards the applicant's submissions that he was ill-treated by staff of colony IK-9 (Volgograd region) on 3 and 7 December 2007, was the applicant subjected to torture or to inhuman or degrading treatment, in breach of Article 3 of the Convention?
2. Have the Government met their obligation to ensure that the applicant's health and well-being are being adequately secured by, among other things, providing him with requisite medical assistance, as required by Article 3 of the Convention?
3. Having regard to the procedural protection from torture and inhuman or degrading treatment, was the investigation by the domestic authorities in respect of the applicant's allegations of ill-treatment on 3 and 7 December 2007 and lack of medical assistance after the alleged beatings in breach of Article 3 of the Convention?

The Government are required to provide copies of the following documents:

- the complete investigation file pertaining to the events of 3 and 7 December 2007,
- a typed copy of the applicant's entire medical history,
- complaints lodged by the applicant to domestic courts about refusals to open criminal proceedings in respect of the events of 3 and 7 December 2007 and the court decisions taken on those complaints.