



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

FIRST SECTION

Application no. 20489/07
Vladislav Nikolayevich URUKOV
against Russia
lodged on 10 April 2007

STATEMENT OF FACTS

The applicant, Mr Vladislav Nikolayevich Urukov, is a Russian national, who was born in 1959 and lives in Cheboksary.

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

In March 2007, the applicant, former head of the civil law department of the Cheboksary State University, was arrested on suspicion of large-scale bribery committed by an organised group. In July 2007, the charge against the applicant was given a new legal characterisation of unqualified bribery.

A. Paternity proceedings

In 2007, Ms Kh. brought a civil claim against the applicant, seeking to recognise his paternity of her daughter V., born in 2004, and to require him to pay maintenance until her majority.

The applicant – who was detained in remand prison IZ-21/1 in Cheboksary at that time – asked the court for leave to appear at the hearing. He also sent a written request to the same effect through the prison authorities. However, the court refused his request.

By judgment of 4 April 2007, the Moskovskiy District Court of Cheboksary granted Ms Kh.'s claim. The applicant was represented at the hearing by Mr Knyazev and Ms Urukova. In his written submissions to the District Court, the applicant claimed that he had an alibi which excluded the possibility that he was the father of the child.

The applicants' representatives filed an appeal.

On 16 May 2007 the Supreme Court of the Chuvashiya Republic rejected the appeal. Only Mr Knyazev but not the applicant was present at the appellate hearing.

B. Police entry into the applicant's home and the applicant's re-detention

On 9 June 2007 the applicant was released on bail.

On 27 March 2008 the Moskovskiy District Court of Cheboksary decided that he had breached the terms of the bail and ordered that he be detained on remand. The applicant was not present at the hearing and could not be immediately re-arrested. The District Court issued a search warrant against him.

At about 11 p.m. on 8 April 2008 police officers showed up at the entrance of the applicant's home. They had been allegedly tipped off that the applicant was at home. In fact, the applicant received in-patient treatment in the infections centre and his underage daughter was at home alone.

She did not open the door to the police immediately and told them that her father was in a hospital. According to her, the officers began banging at the door and threatened her to break in. She was thus compelled to open the door. One or more police officers entered the applicant's flat, inspected all the rooms, opened closets and boxes, lifted the sofa and bed, and then left.

On the following day the applicant was arrested and placed in custody.

On 24 April 2008 the Supreme Court of the Chuvashiya Republic found that the District Court's detention order of 27 March 2008 was not justified, in that no actual breach of the bail conditions had been established, and quashed it. The applicant was released.

The applicant complained to a prosecutor about the unlawful actions by the police officers on 8 April 2008. On 16 May 2009 the prosecutor refused to institute criminal proceedings, finding that no criminal offence had been committed.

The applicant then sued the Ministry of Finance for compensation in respect of an unauthorised search of his home carried out by the police. The District Court heard a number of witnesses. The applicant's daughter insisted that the police officers' presence in the flat had lasted as long as two and a half hours. Officer K. testified that he had entered the flat with the consent of the applicant's daughter and that he had stayed inside no longer than two or three minutes. He had not searched the flat or opened closets. S., a relative who was present at the scene, stated that the police had entered the flat with the daughter's consent, that they had "moved beds, looked under the carpets, displaced closets and paintings, gone into the basement".

By judgment of 29 October 2009, the Leninskiy District Court of Cheboksary rejected the applicant's claim. Citing section 11 of the Police Act, according to which the police officers may enter living premises and inspect them if a crime has been, or is being, committed there, and section 8 of the Operational-Search Activities Act, the District Court held that the officers had acted lawfully, on the basis of the search warrant of 27 March 2008, and that they had the right to enter the applicant's flat because they had information that he might have been at home. Since the Russian law

only established the right to compensation in case of unlawful actions, the applicant's claim was dismissed.

On 9 December 2009 the Supreme Court of the Chuvashiya Republic upheld the District Court's judgment on appeal.

C. Compensation for a stay in custody

The applicant sued the Ministry of Finance for compensation in connection of his unlawful stay in custody between 9 and 24 April 2008. He claimed compensation in respect of the loss of income during that period, non-pecuniary damages and legal costs.

By judgment of 27 November 2009, the Leninskiy District Court of Cheboksary rejected his claim, relying on two grounds. Firstly, it noted that the applicant had been convicted in those criminal proceedings whereas Article 1070 § 1 of the Civil Code only allowed the courts to award compensation to those who were acquitted or rehabilitated. Secondly, it pointed out that the Supreme Court quashed the detention order as being "unjustified" rather than "unlawful". In the latter case, no compensation could be paid.

On 11 January 2010 the Supreme Court of the Chuvashiya Republic rejected the applicant's appeal against the District Court's judgment.

D. Other proceedings

On 17 April 2009 the Moskovskiy District Court found the applicant guilty of bribery. It established that on no fewer than eleven occasions the applicant had incited his students to pay money to a law firm, which he owned, in exchange of a passing grade at the exam. The District Court sentenced the applicant to two years' imprisonment in a guarded settlement. On 2 July 2009 the Supreme Court upheld the conviction on appeal.

In 2010, the applicant sued the Ministry of Finance for compensation for his stay in custody during the initial period of criminal proceedings until a new legal characterisation had been attributed to the charges against him. His claim was rejected at the final instance by the Supreme Court on 1 September 2010.

RELEVANT DOMESTIC LAW

A. The right of the police to enter homes

Section 11 of the Police Act (Law no. 1026-I of 18 April 1991, in force at the material time) codifies the powers of the police. In particular, paragraph 7 provides that the police may arrest the individuals whose placement in custody was ordered; paragraph 16 allows the police to carry out operational and search activities (see below), and paragraph 18 authorises them to enter living premises and to inspect them when pursuing

suspected criminals or if there are grounds to believe that a crime has been, or is being, committed there.

Inspection of premises is one of the forms of operational and search measures, as defined in section 6 § 8 of the Operational-Search Activities Act (Law no. 144-FZ of 12 August 1995). Pursuant to section 8, an interference with the citizen's right to inviolability of his or her home is only possible on the basis of a judicial decision if there is information about a planned or committed criminal offence or about individuals who are planning or who have committed an offence.

B. Compensation for unlawful detention

Article 1070 of the Civil Code determines liability for the damage caused by unlawful actions of law-enforcement authorities or courts. Paragraph 1 establishes the principle of strict liability of the State treasury for the damage caused by (i) unlawful conviction; (ii) unlawful institution of criminal proceedings; (iii) unlawful application of a preventive measure in the form of placement in custody or an undertaking not to leave the place of residence, and (iv) unlawful administrative detention or mandatory works.

Paragraph 2 establishes, in particular, that the federal or regional treasury shall be liable for the damage sustained by an individual in the framework of administration of justice provided that the judge's guilt has been established in a final criminal conviction.

COMPLAINTS

Application form of 9 April 2007 and addendum of 8 July 2007

The applicant complains under Article 5 §§ 1 and 5 of the Convention that his placement in custody was unlawful and also unnecessary. He complains under Article 8 about wiretapping of his telephone. Finally, he complains under Article 3 about inadequate medical assistance in detention.

Application form of 12 November 2007

The applicant complains under Articles 6, 8 and 13 of the Convention that the paternity proceedings were conducted in his absence.

Application form of 17 November 2009

The applicant complains under Articles 3, 5 and 6 of the Convention about alleged pressure from the prosecuting authorities, unlawful detention and search in his flat and a miscarriage of justice in the trial against him.

Two application forms of 31 May 2010

The applicant complains under Article 5 of the Convention that he was placed in custody without sufficient grounds. He complains under Article 6 that he did not have a fair hearing in the compensation proceedings and under Article 17 that the Russian authorities exceeded their powers.

The applicant complains under Articles 5, 6 and 17 of the Convention about an unlawful search of his flat and the rejection of his claim for compensation in this connection.

Application form of 11 January 2011

The applicant complains under Articles 5 and 6 about the rejection of his claim for compensation relating to the initial period of his detention.

QUESTIONS TO THE PARTIES

1. Was there a violation of the applicant's right to a fair hearing under Article 6 § 1 of the Convention in connection with the domestic courts' refusal to ensure his personal attendance during the paternity proceedings?

2. Was there a violation of the applicant's right to respect for his home under Article 8 of the Convention on account of the police officers' entry into his flat on 8 April 2008? In particular, what was the specific legal basis for their actions?

3. Did the applicant have an enforceable right to compensation for his detention from 9 to 24 April 2008, as required by Article 5 § 5 of the Convention?