



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

FIRST SECTION

Application no. 61636/10
Andrey Aleksandrovich ARKHANGELSKIY
against Russia
lodged on 31 August 2010

STATEMENT OF FACTS

The applicant, Mr Andrey Aleksandrovich Arkhangelskiy, is a Russian national, who was born in 1972 and lives in Purovsk.

A. The circumstances of the case

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

1. First set of criminal proceedings

On 25 March 2004 the applicant was arrested and charged with murder of Mr A. (the victim).

On 27 March 2004 the Purovskiy District Court of the Yamalo-Nenetskiy Region (the District Court) ordered the applicant's detention on remand for an unspecified period. It referred to the seriousness of charges brought against the applicant, his criminal record, absence of a permanent place of residence and the applicant's unemployment. It appears that the applicant did not appeal against the detention order.

On 11 July 2004 the District Court convicted the applicant of the murder as well as of stealing from the victim and sentenced him to 12 years and 2 months of imprisonment in a "strict regime correctional colony". On 28 October 2004 the Yamalo-Nenetskiy Regional Court (the Regional Court) upheld the judgment on appeal.

2. Second set of criminal proceedings

On 21 July 2010 the Presidium of the Regional Court examined the applicant's supervisory review complaint against his conviction and found a violation of the applicant's right to examine a key prosecution witness as well as a violation of his right to qualified legal assistance in the first set of

the criminal proceedings. The Presidium quashed both the first instance and appeal judgments and remitted the case to the first instance court for a new examination. The Presidium also ordered the applicant's detention on remand until 21 October 2010 and stated in its judgment as follows:

“Taking into account that [the applicant] is being charged with a particularly serious offence [allegedly committed] while having a criminal record and being convicted [of a previous criminal offence] to corrective labour, there are sufficient reasons to believe that if released he could continue his criminal activity or abscond justice.

On this basis, the Presidium considers it necessary to choose in respect of [the applicant] a preventive measure in the form of custody for a term sufficient for the transfer of the criminal case file to [the District Court] and fixing a date for the hearing”.

On 16 August 2010 the District Court issued an interim decision setting the next hearing for 30 August 2010. It noted in the decision that the applicant's detention had been authorised until 21 October 2010.

On 21 October 2010 the District Court adjourned the case and extended the applicant's detention for three months, until 21 January 2011. It referred to the seriousness of the charges, absence of a permanent place of residence and the applicant's criminal record. The Town Court noted that the applicant could reoffend or flee from justice, if released.

The applicant appealed against the detention order. He argued that the reasons cited by the District Court did not justify his continued detention and referred to Article 5 of the Convention.

On 25 November 2010 the Regional Court upheld the detention order. It referred to the seriousness of the charges and noted that the circumstances, under which the prevention measure in respect of the applicant had been ordered, had not changed.

On 30 December 2010 the District Court adjourned the case again and extended the applicant's detention for three more months, until 21 April 2011. It referred to the seriousness of the charges and the applicant's criminal history on record at the moment when the offence had been committed. On that basis the District Court reached the conclusion that the applicant could reoffend or flee from justice, if released.

The applicant appealed. He argued that he had spent over six years in detention, and that it was unlawful to keep him further in detention on the basis of the same reasons as in the first detention order of 27 March 2004.

On 27 January 2011 the Regional Court upheld the detention order on appeal.

On 11 April 2011 the District Court convicted the applicant of murder and theft and sentenced him to eight years' imprisonment.

3. Conditions of detention in the correctional colony

Between 14 December 2004 and 14 August 2010 the applicant served his prison sentence in correctional colony IK-8 (the Yamalo-Nenetskiy Region). He provided the following description of the conditions of his detention in the correctional colony.

From 14 December 2004 to June 2006 the applicant stayed in dormitory no. 7/8 in an old wooden barrack. He was assigned to Brigade 7. The section of the dormitory where he slept measured 35 sq. m. and presented

16 sleeping places but sometimes accommodated more individuals, so some of the convicts had to sleep by two in one bed. The sanitary premises were also extremely packed: the entire population of the dormitory comprising up to 100 prisoners had to use three water taps and two toilets. The toilets did not have doors and therefore offered no privacy. There were often queues in front of the toilets, which were not equipped with lavatory pans or a sewage system and gave off a fetid smell. The sump under the toilets was not cleaned regularly and sometimes the contents of the sump got out. It was cold in the dormitory in the winter.

In 2006, after a hunger strike of the convicts, the dormitory was demolished by the colony administration and a new dormitory was built.

From June 2006 to January 2007 the applicant lived in dormitory no. 9/10, an old rotten wooden barrack which had been built as a temporary construction more than 25 years ago. He was assigned to Brigade 10. The conditions of his detention were similar to those in the previous dormitory. The applicant lived in a section measuring 25 sq. m. together with ten other convicts. In a letter dated 31 August 2010 he stated that nine convicts in total had lived in the section during that period. The entire population of the dormitory comprised up to 200 prisoners. Only six water taps and five toilets were available in the barrack. In the toilets there were no doors and no lavatory pans.

From June 2007 to 18 August 2010 the applicant lived in dormitory no. 7/8. He was assigned to Brigade 7. The floor in the dormitory was made of used railway ties impregnated with creosote that caused a strong smell. Inmates had headaches because of the smell. The living premises were not equipped with ventilation. The dormitory was humid and stuffy. The walls were covered with mould. It was cold in the winter. The external walls of the dormitory were 45 cm thick in breach of regulations which, according to the applicant, prescribed at least 60 cm thick walls in the area. The walls froze through in the winter which caused the appearance of ice in the corners. The entire population of the dormitory comprising up to 230 prisoners had for their use five water taps, four toilets and four pissoirs. There were often queue in front of the toilets.

Water in the colony was only available in the morning, at lunch and in the evening for short periods. There was sometimes no electricity for weeks or even months.

Catering in the colony was completely unsatisfactory. In particular, the food contained no fats. The nutrition daily norm prescribed by law (100 g of fish, 90 g of meat) was not complied with. Each convict received only one egg per week and not every week, although two eggs per week were prescribed by law. The tea was not sweet, the bread was wet and the porridge was too liquid.

The winter temperature in the area was often going below minus 40 degrees Celsius, but the convicts in the colony were not provided with appropriate clothing. In particular, the standard winter jacket was only insulated with a synthetic padding 5 mm thick. The winter shoes were insulated only with 2-3 mm of stuff. The convicts were not provided with felt boots (валенки) although on several occasions they had to sign up a register confirming that they had received them. Prisoners received no gloves, except for those who worked in the industrial area of the colony.

The cotton uniform was cold in the winter and hot in the summer. The underclothing was thin and cold. The convicts were not allowed to wear other clothing except for uniforms provided with by the colony administration.

The blankets were also thin. The applicant had to use the same blanket and the mattress for over five years of his detention in the colony although it was supposed to be changed every 2.5 years. In support of his allegations the applicant produced a piece of the winter jacket, of the blanket and of the underclothing he had been using.

While in the colony the applicant contracted tuberculosis and allergic dermatitis. He also suffered from colds every winter. It appears that he received some medical treatment in connection with his diseases.

According to the applicant, up to ten convicts died every year in the colony due to appalling conditions of detention.

4. Other facts

Between October 2006 and September 2007 as well as between 31 March 2010 and July 2010 the applicant worked in the industrial area of the colony. His salary did not exceed 120 RUB (~ 3 EUR) per month which was lower than the minimum monthly wage prescribed by law. The colony administration allegedly did not transfer any contributions from the applicant's salary to the Russian Pension Funds.

On 31 December 2008 the colony governor ordered marching exercises for the convicts. According to the applicant, this was a punishment measure for the prisoners and not prescribed by law.

In 2011 the applicant lodged a complaint with the Labytnangskiy Town Court of the Yamalo-Nenetskiy Region about conditions of detention in the colony. On 25 August 2011 the Town Court refused to accept the complaint for examination on procedural ground. It appears that the applicant did not appeal against the decision.

B. Relevant domestic law

Article 99 § 1 of the Penitentiary Code of 8 January 1997 provides for a minimum standard of two square metres of personal space for male convicts in correctional colonies. They should be provided with an individual sleeping place and given bedding, seasonal clothing and toiletries (Article 99 § 2).

COMPLAINTS

1. The applicant complains under Article 3 that conditions of detention in the correctional colony were degrading.

2. Under Article 5 the applicant makes the following complains:

(a) his detention pursuant to the judgment of 11 July 2004 constituted a violation of Article 5 since it was subsequently quashed as unlawful by the supervisory review instance on 21 July 2010;

(b) his detention between 21 July 2010 and 18 August 2010 was unlawful since after the judgment of 11 July 2004 had been quashed he was kept in the correctional colony and not in a remand prison;

(c) his detention on remand was unreasonably long and not based on sufficient reasons.

3. Under Article 4 and Article 1 of Protocol no. 1 the applicant complains that his salary in the colony was lower than the minimum monthly wage prescribed by law. He further complains that the colony administration did not transfer any contributions from his salary to the Russian Pension Funds.

4. Under Article 13 the applicant complains about lack of any effective remedy for his complaints described above.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in correctional colony IK-8 compatible with Article 3 of the Convention? The Government are requested to comment on all aspects of the conditions of detention which the applicant complained of. The Government are requested to produce documentary evidence, including population registers, floor plans, day planning, colour photographs of the sanitary facilities etc., as well as reports from supervising prosecutors concerning the conditions of detention in the colony and other primary documents relevant to the subject-matter of the applicant's complaint.

2. Was the length of the applicant's detention on remand in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention? In particular, were there "relevant and sufficient" reasons for the applicant's continued detention? The parties are requested to submit the detention orders issued by the Purovskiy District Court of the Yamalo-Nenetskiy Region on 21 October 2010 and 30 December 2010 respectively.

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?