



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

FIRST SECTION

Application no. 32052/08
Marat Karimovich KHAYBULLIN
against Russia
lodged on 20 May 2008

STATEMENT OF FACTS

The applicant, Mr Marat Karimovich Khaybullin, is a Russian national, who was born on 27 May 1971 and lived in the town of Salavat, Bashkortostan Republic. He is serving his sentence in a correctional colony in the Orenburg Region.

The circumstances of the case

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

1. Conditions of detention in a remand prison

After the applicant's arrest in May 2006 and at least until February 2009 he was held in remand prison IZ-56/2 in the Orenburg Region. The prison was overcrowded. Thus, cell no. 16 measuring 16 sq. m accommodated 10 inmates; cell no. 105 measuring 30 sq. m housed up to 16 individuals. Without indicating the dates, the applicant also complained that on a number of occasions during the pre-trial investigation against him he had been taken to the Novotroitsk town police ward where he remained for several days in the conditions, which according to him, had been similar, if not worse, than those in the remand prison. According to the applicant, dirty and damp cells in the ward were extremely overcrowded with inmates having less than 2 square metres of personal space. He had no privacy at any time. Food was provided once a day in a rather scarce amount and of poor quality. He supported his complaints with a written statement by an inmate with whom he had shared a cell in the police ward on a number of occasions and written statements by his inmates in the remand prison.

2. Detention on remand

On 12 May 2006 the applicant was arrested on suspicion of aggravated drug-trafficking. Five days later the Novotroitsk Town Court of the Orenburg Region authorised the applicant's detention. In January 2008 the pre-trial investigation was closed and the applicant was committed to stand trial. On 25 August 2008 the same court convicted the applicant at first instance.

The applicant's detention on remand was not based on relevant and sufficient reasons. The gravity of the charges was cited as the main reason for detention in orders of 6 February 2007, 6 March 2007, 7 and 23 May 2007, 21 August 2007, 12 November 2007, 25 December 2007, 24 January 2008, 8 April 2008, 11 July 2008 and 25 July 2008. The detention orders of 6 February 2007, 6 March 2007, 7 May 2007, 21 August 2007, 12 November 2007, 25 December 2007, 24 January 2008, 8 April 2008, 11 July 2008 and 25 July 2008 did not mention specific and relevant facts capable of corroborating the existence of security risks. The domestic courts did not consider the possibility of applying alternative measures of restraint or did not consider them seriously (see the orders of 6 February 2007, 6 March 2007, 7 and 23 May 2007, 21 August 2007, 12 November 2007, 25 December 2007, 24 January 2008, 8 April 2008, 11 July 2008 and 25 July 2008). Extensions were approved without verifying compliance with the special diligence requirement: it was not stated what had been done in the period elapsed since the last extension and what had to be done during the period for which the extension would be granted (see the orders of 6 March 2007, 21 August 2007 and 25 July 2008). The detention orders of 21 August 2007 and 25 July 2008 employed repetitive standard formulae, notwithstanding changes in the applicant's situation or developments in the proceedings. The trial court also issued collective detention orders in respect of the co-defendants that did not contain an analysis of their individual situations (see the orders of 6 March 2007, 23 May 2007, 21 August 2007, 12 November 2007, 24 January 2008, 8 April 2008 and 11 July 2008). The applicant appealed against the detention orders. He also argued, both before the first-instance and the appeal courts, that his state of health was rapidly deteriorating and precluded his further detention. The appeal court each time upheld the order, having endorsed the Town Court's reasoning (see appeal decisions of 1 March 2007, 5 April 2007, 12 July 2007, 2 October 2007, 19 February 2008, 21 and 28 February 2008, and 7 August 2008).

COMPLAINTS

1. The applicant complained under Article 3 of the Convention about the conditions of his detention in the remand prison and police ward.

2. The applicant complained under Article 5 § 3 about an excessive duration of pre-trial detention without relevant or sufficient reasons.

QUESTIONS TO THE PARTIES

1. Has there been a violation of Article 3 of the Convention on account of the applicant's conditions of detention in remand prison IZ-56/2 and the police ward? 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 those facilities.

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 the domestic courts' decisions extending the applicant's detention founded on "relevant and sufficient" reasons and were the proceedings conducted with a "special diligence" (see *Olstowski v. Poland*, no. 34052/96, § 78, 15 November 2001; *Ilykov v. Bulgaria*, no. 33977/96, § 81, 26 July 2001)?