



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

FIRST SECTION

Application no. 46401/08
Aleksandr Konstantinovich BLYUDIK
against Russia
lodged on 26 June 2008

STATEMENT OF FACTS

The applicant, Mr Aleksandr Konstantinovich Blyudik, is a Russian national, who was born in 1955 and lives in Makhachkala, Republic of Dagestan. He is represented before the Court by Mr R. Kadiyev, a lawyer practising in Makhachkala.

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

Since 1990 the applicant lived with T. Kurganova.

In 1991 and 1992 they had two daughters, Kristina (born on 1 July 1991) and Ksenia (born on 13 July 1992). The applicant did not register his paternity.

In 2002 the applicant and T. Kurganova separated. Both girls continued living with the applicant.

In 2004 T. Kurganova married Yu. Kurganov.

In May 2005 Yu. Kurganov adopted Ksenia and Kristina.

Since July 2007 Ksenia stopped attending school, frequently ran away from home and vagabonded. She allegedly stole her mother's jewellery.

In December 2007, following an application by T. Kurganova, Ksenia was placed in a temporary detention centre for juvenile offenders.

On 18 February 2008 the Kirovskiy District Court of Makhachkala granted the application of the administration of the Kirovskiy District of Makhachkala and ordered that Ksenia be placed in a closed educational institution for two years and five months.

On an unspecified date Ksenia was placed in a closed educational institution in the town of Pokrov, Vladimir Region, some 2500 km from Makhachkala. The applicant alleged that his daughter's correspondence with him was subjected to censorship by the facility's administration.

In the meantime, the applicant brought proceedings seeking the establishment of his paternity *vis-à-vis* Kristina and Ksenia.

On 9 April 2008 the Kirovskiy District Court of Makhachkala established the applicant's paternity in respect of Kristina and Ksenia.

Following the applicant's request, the Prosecutor of the Republic of Dagestan applied to the Presidium of the Supreme Court of the Republic of Dagestan for supervisory review of the decision of 18 February 2008.

While the application was already pending before the European Court, on 7 August 2008 the Presidium of the Supreme Court of the Republic of Dagestan quashed the decision of 18 February 2008 by way of supervisory review as unlawful and unjustified and discontinued the proceedings. The court held, in particular, that in violation of the procedure established by the Federal Law on the Basic Measures for Preventing Abandonment and Delinquency of Minors, no. 120-FZ of 24 June 1999, the district court took a decision on Ksenia's placement in a closed educational institution in the absence of a decision refusing institution of the criminal proceedings or a decision on discontinuation of the criminal proceedings against the latter, and without her prior medical examination.

On an unspecified date Ksenia was released from the closed educational institution and returned home.

COMPLAINTS

Relying on Articles 6 and 14 of the Convention the applicant complains that the placement of his daughter Ksenia in a closed educational institution was carried out in violation of the procedure set forth in domestic law without her being able to enjoy the guarantees of a fair trial and the right not to be discriminated against on the ground of her age.

The applicant further complains under Article 8 that Ksenia's placement in a closed educational institution violated their right to respect for their family life. He mentions, in particular, the remoteness of the institution where Ksenia was placed from her home city, which deprived them of the opportunity to see each other. Furthermore, the applicant complains about censorship of his daughter's correspondence by the facility's administration, which prevented them from maintaining family ties free from outside control.

QUESTIONS TO THE PARTIES

1. Was the applicant's daughter Ksenia Kurganova deprived of her liberty in breach of Article 5 § 1 of the Convention? In particular, was her placement in a closed educational institution carried out in compliance with the procedure provided for in domestic law?
2. In view of the decision of the Presidium of the Supreme Court of the Republic of Dagestan 7 August 2008, did the applicant's daughter Ksenia Kurganova retain the victim status under Article 34? In particular, did she obtain any redress for the violation of her rights, if any?

3. Did the applicant's daughter Ksenia Kurganova have a right to compensation, as guaranteed by Article 5 § 5 of the Convention? The Government are asked to refer to the legal provisions which entitled the applicant to seek such compensation on behalf of his daughter. Did he use the legal avenues available to him to claim such compensation?

4. Did the placement of the applicant's daughter Ksenia Kurganova in a closed educational institution 2500 km from her home city and censorship of her correspondence with the applicant by the administration of the institution in question amount to an interference with the applicant's and his daughter's right to respect for their family life and correspondence, within the meaning of Article 8 § 1 of the Convention? If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2?

The parties are invited to specify the dates when the applicant's daughter was placed in a closed educational institution and when she was released.