



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

FIRST SECTION

Application no. 41069/06
Ilya Anatolyevich GRYLEV
against Russia
lodged on 7 August 2006

STATEMENT OF FACTS

The applicant, Ilya Anatolyevich Grylev, is a Russian national, who was born and lived in Saransk prior to his arrest. He is at present serving his sentence after the conviction.

A. Alleged ill-treatment on 8 and 13 February 2006

On 5 February 2006 the officers of the Organised Crime Unit (hereafter “OCU”) of the Ministry of the Interior of Mordoviya («*ВООП МВД РМ*») arrested the applicant on suspicion of participation in a drug-related crime. It appears that the applicant was put in a temporary detention facility (IVS) on the same day. Upon his admission to the IVS he was examined by a doctor who recorded no injuries. On 7 February 2006 the applicant was put in custody.

On 8 February he was brought to the OCU premises in Saransk and was conducted by a police officer U. to office No. 217 where two other policemen were present. They handcuffed the applicant and started beating him on his head and other parts of the body, demanding him to confess to a robbery. The applicant refused.

On the same day the applicant was brought back to the IVS. It appears that he did not complain of his injuries to the IVS doctor on that day.

On 10 February 2006 the applicant underwent forensic medical expert examination. According to medical forensic report No. 279 of 10 February 2006, the applicant had bruises on his chest, on the right side of his stomach, and on his left shoulder in the scapula area, classified as no damage to health. According to the expert, the injuries had been inflicted by a solid blunt object within 1-3 days prior to the examination.

In the morning of 13 February 2006 the applicant complained of his health condition to the IVS doctor.

On the same date he was again brought to the OCU premises by U., who again beat him on the head with a water bottle and books, extorting confession. The applicant did not confess.

On the same day he was brought back to the IVS where he complained of a headache to the doctor. He was brought to a local inter-district hospital where he was examined by a doctor who issued a certificate attesting that the applicant had no injuries and his health condition was not incompatible with detention.

According to the information provided by the IVS administration for the purposes of the domestic investigation, on 8 and 13 February 2006 the applicant was taken from the IVS by police officers for unspecified investigative activities. According to the applicant, no investigative activities were conducted with his participation on 8 and 13 February 2006.

On 15 February 2006 the applicant was placed in remand center no. IZ-13/1 (SIZO-1). A remand facility doctor examined him on admission, but no injuries were detected.

B. Saransk authorities' response to the applicant's complaint of police ill-treatment

On 14 February 2006 the applicant requested the Prosecutor's office of the Leninskiy District of Saransk to open criminal proceedings against the implicated policemen.

On 17 February 2006, after a pre-investigation inquiry under Article 144 of the Code of Criminal procedure (CCrP), investigator P. at the Leninskiy District Prosecutor's office of Saransk (*прокуратура Ленинского района г. Саранска*) decided not to open criminal proceedings against the police officers. The decision cited the findings of the expert report of 10 February 2006, the testimony of the IVS and SIZO doctors, and the account of the events given by the policemen concerned, namely U., D. and K. whose implication into the events was established by the inquiry. The police officers denied the applicant's allegations and explained that on 8 and 13 February 2006 he was brought to the OCU premises for investigative activities and waited in the office No. 217 while there was no convoy van available. The doctors of the IVS and SIZO explained that they examined the applicant on 5 and 15 February 2006, respectively, and recorded no injuries. The IVS doctor also testified that the applicant first complained to her on 13 February 2006, and having examined the applicant on that day she diagnosed him with the same injuries as established by the expert report of 10 February 2006. The decision of 17 February 2006 pointed out that the applicant's account of the events, namely his allegation that he had been beaten on his head, was not corroborated by the medical documents, and that the applicant had belatedly complained to the IVS doctor of the injuries sustained on 8 February 2006.

On an unspecified date the decision of 17 February 2006 was annulled by the Leninskiy District Court of Saransk.

On 31 May 2006 another decision not to open criminal proceedings, identical to the previous one, was taken by the same investigator.

The applicant challenged the decision of 31 February 2006 in court. On 8 August 2006 his complaint was dismissed by the Leninskiy District Court of Saransk. The court found that the investigators had taken all necessary investigative measures and interviewed all the persons concerned.

The decision was upheld by the Supreme Court of Mordoviya on 25 October 2006, and became final.

COMPLAINT

The applicant complains under Article 3 and 13 of the Convention of ill-treatment in police custody and of the lack of an effective investigation into his relevant complaint.

QUESTIONS

1. Was the applicant subjected to torture, inhuman or degrading treatment or punishment by the police officers, in breach of Article 3 of the Convention?

In answering that question the Government are requested to address, *inter alia*, the following points concerning the circumstances surrounding the applicant's alleged ill-treatment:

(a) By whom of the police officers, for what purposes, when and for how long was the applicant taken from IVS on 8 and 13 February 2006 (please submit extracts from the IVS register concerning the applicant's transportation, records of investigative activities, etc.)?

(b) What activities, where, when and by whom were conducted with the applicant's participation on 8 and 13 February 2006? The Government are required to provide a detailed hour-by-hour report on what happened during that period and to account for the time spent by the applicant in the hands of the police.

(c) Where was the applicant held during that period? What was his procedural status? What confessions and/or statements (*явка с повинной; показания*) did he give during that period? Was he given access to a lawyer before and during each such activity, and, if so, was that a lawyer on duty invited by a police officer or an investigator, or a lawyer of the applicant's choice? Was he given access to a doctor and, if so, when? Was his medical examination, if any, conducted out of the hearing and out of sight of police officers?

(d) When, by whom and on which ground was the forensic medical examination of the applicant ordered?

The Government are required to provide relevant procedural and other documents in support of their answers, including where applicable the decision on bringing the criminal proceedings within the framework of which the applicant was apprehended; records of investigative activities including interrogations as a suspect and accused, surrender with a confession of guilt (*явка с повинной*), if any; records of the applicant's

entering and leaving the police station from the Register of persons brought to a police station (*Книга учета лиц, доставленных в дежурную часть органа внутренних дел*), of his admission to detention facilities (*ИБС и СИЗО*), any documents attesting to his state of health and injuries during the period concerned, etc.

2. Having regard to the procedural protection from torture, inhuman or degrading treatment or punishment (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), did the State conduct an investigation in compliance with Article 3 of the Convention (see, among many others, *Mikheyev v. Russia*, no. 77617/01, §§ 108-110 and 121, 26 January 2006)?

In particular:

(a) Where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused, failing which a clear issue arises under Article 3 of the Convention (see, among other authorities, *Selmouni v. France* [GC], no. 25803/94, § 87, ECHR 1999-V). Did the domestic authorities discharge such a duty?

(b) Was the investigating authority which examined the applicant's complaint of police ill-treatment impartial and independent from the investigating authority which conducted the investigation in the criminal case against the applicant?

(c) Were the police officers, which assisted the investigating authority and carried out operational activities in the course of the pre-investigation inquiry into the applicant's complaint, impartial and independent from the police officers who allegedly subjected the applicant to ill-treatment?

(d) Was the investigating authority which examined the applicant's complaint of police ill-treatment impartial and independent from the police officers who allegedly subjected the applicant to ill-treatment? Did those police officers' department conduct operative and other supporting activities in cases investigated by the investigating authority in question?

(e) What operational and other activities were carried out in the course of the pre-investigation inquiry? Were other persons detained in the cell together with the applicant? If so, were they questioned in relation to the applicant's complaint of police ill-treatment?

(f) Does the pre-investigation inquiry under Articles 144-145 of the Code of Criminal Procedure of the Russian Federation provide for procedural guarantees and investigative methods capable of establishing the facts of the case and leading to the identification and punishment of those responsible, where there is an arguable claim of ill-treatment under Article 3 of the Convention? Did the domestic authorities' refusal to bring criminal proceedings and, hence, to conduct a preliminary investigation according to Part VIII, Articles 150-226 of the Code of Criminal Procedure breach the State's obligation to conduct an investigation in compliance with Article 3?

The Government are invited to submit copies of the materials of the pre-investigation inquiries under Articles 144-145 of the Code of Criminal Procedure including the investigating authorities' decisions on the applicant's complaints of police ill-treatment, as well as the courts'

decisions on the applicant's complaints against the investigating authority's decisions, medical certificates and medical experts' reports concerning the applicant's injuries and other relevant documents.

3. Did the applicant have at his disposal an effective domestic remedy for his complaints under Article 3 of the Convention as required by Article 13 of the Convention?

Specific documents requested: the report on the incident involving the applicant allegedly prepared by the policemen on 5 February 2006 (mentioned on page 1 of the decision not to open criminal proceedings of 6 April 2006, related to another applicant's complaint irrelevant for the present case); records of the applicant's transportation from the IVS to and from the OCU on 8 and 13 February 2006 including information about the time and the police officers involved; records of investigative activities on 8 and 13 February 2006; the decision to annul the refusal to open criminal proceedings of 17 February 2006; records of the courts' hearings held by the Leninskiy District Court of Saransk on 8 August 2006 and by the Supreme Court of Mordoviya on 25 October 2006; documents related to the applicant's examination by the doctors in IVS, SIZO, and in the hospital.