



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

Communicated on 3 July 2014

FIRST SECTION

Application no. 30709/10
Tokhir Fedorovich MAZITOV
against Russia
lodged on 13 May 2010

STATEMENT OF FACTS

The applicant, Mr Tokhir Fedorovich Mazitov, is a Russian national, who was born in 1977 and lives in St Petersburg.

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

A. Criminal proceedings against the applicant

The applicant worked as the head of the security department of the State Technology University in Kazan.

On 22 January 2009 the Tatarstan Republic prosecutor's office opened criminal proceedings against the applicant on suspicion of abuse of power in connection with employment of bogus security staff.

On 18 May 2009 the prosecutor's office opened new criminal proceedings against the applicant on suspicion of bribery and embezzlement.

On 19 May 2009 the applicant came to the investigator as summoned. He was immediately arrested.

On 19 May 2009 the Vakhitovskiy District Court of Kazan remanded the applicant in custody. It held that the investigator had submitted evidence of the applicant's involvement in criminal activities. The court was not convinced that the applicant might interfere with the investigation. It however found that he was suspected of serious offences and had no permanent employment. There was therefore a risk of absconding. The court took note of the applicant's arguments that he had clean criminal record, permanent place of residence and a minor child, that he had been dismissed from his post at the university and could not therefore put pressure on the witnesses (the university employees and students) and that he had not absconded to date although he had had plenty opportunity of doing so. The

court however found that those factors were not sufficient to warrant the rejection of the investigator's application for custody.

On 18 June 2009 the applicant was formally charged with abuse of power, bribery and embezzlement.

On an unspecified date the investigation was completed and the applicant started to study the case-file.

On 15 July 2009 the Vakhitovskiy District Court extended the applicant's detention until 19 September 2009, for the same reasons as before.

The applicant appealed. He submitted that had permanent place of residence and employment and was bringing up a minor child. He also complained that the conditions of his detention were inhuman. On 24 July 2009 the Supreme Court of the Tatarstan Republic upheld the extension order on appeal, finding that it had been lawful, sufficiently reasoned and justified.

On 15 September 2009 the Vakhitovskiy District Court extended the applicant's detention until 19 November 2009, finding that there was no reason to amend the preventive measure. On 29 September 2009 the Supreme Court of the Tatarstan Republic upheld the extension order on appeal, finding that it had been lawful, sufficiently reasoned and justified.

On 17 November 2009 the Vakhitovskiy District Court extended the applicant's detention until 22 December 2009, finding that the investigation was still pending and that, taking into account the gravity of the charges, the applicant might abscond or interfere with the investigation.

In his appeal submissions the applicant argued that there was no reasonable suspicion against him. He also submitted that he had no criminal record and had permanent employment. The District Court had not examined the possibility of applying a more lenient preventive measure.

On 8 December 2009 the Supreme Court of the Tatarstan Republic upheld the extension order on appeal. It found that the District Court had correctly relied on the gravity of the charges and the complexity of the case. The clean criminal record and the permanent place of residence were not sufficient to warrant a release. It also noted that the applicant's argument about the lack of reasonable suspicion could not be examined at the current stage of the proceeding. It was for the trial court to ascertain whether the charges against the applicant were well-founded.

On 21 December 2009 the Vakhitovskiy District Court extended the applicant's detention until 11 January 2010, relying on the gravity of the charges and the risks of absconding or interfering with the investigation. There was no reason to amend the preventive measure. The court also held that it had no competence to examine the applicant's complaint about the allegedly appalling conditions of detention.

On 22 January 2010 the Supreme Court of the Tatarstan Republic upheld the extension order on appeal, finding that it had been lawful, sufficiently reasoned and justified.

On 6 January 2010 the Privolzhskiy District Court of Kazan extended the applicant's detention until 22 January 2010 for the same reasons as before. On 29 January 2010 the Supreme Court of the Tatarstan Republic upheld the extension order on appeal, finding that it had been lawful, sufficiently reasoned and justified.

On 21 January 2010 the Privolzhskiy District Court extended the applicant's detention until 22 April 2010 for the same reasons as before.

On 16 March 2010 the Supreme Court of the Tatarstan Republic quashed the extension order and ordered the applicant's release on bail. The District Court had not advanced convincing reasons for its finding that the applicant might interfere with the proceedings. The investigation had been completed and the applicant was studying the case-file. He had no criminal record, had a permanent place of residence and a minor child. He had already spent ten months in detention. His further detention would be contrary to Article 5 § 3 of the Convention.

On 21 December 2010 the criminal proceedings against the applicant were discontinued on the ground that the prosecution was time-barred.

B. Conditions of detention and transport

1. Conditions of detention in the remand prison

From 21 May 2009 to 17 March 2010 the applicant was held in remand prison no. IZ-16/1 in Kazan.

From 21 May to 17 June 2009 the applicant was held in cell no. 127. It measured 49 square metres and housed thirty to forty-seven inmates. It was equipped with sixteen sleeping bunks and the inmates had to take turns to sleep. Some of the inmates suffered from tuberculosis, hepatitis C or HIV. Many of them smoked and the cell was therefore always full of cigarette smoke. The cell had no windows and the forced ventilation was out of order. The cell was damp, dim and noisy. The lights and the TV were on day and night disturbing the applicant's sleep. The stinky toilet facilities were separated from the sleeping area by a brick partition and a plastic curtain. They were equipped with a lavatory pan and a sink. The inmates had to queue to go to the toilet or to wash themselves. The dining table was situated at about a three-metre distance from the toilet facilities. The cell and the sleeping bunks swamped with insects.

From 17 June 2009 to 17 March 2010 the applicant was held in cell no. 94. It measured 24 square metres and was equipped with eight sleeping bunks. It housed up to nine inmates. The area near the windows was fenced off by a metal bar so that the inmates could not approach the windows and open them. According to the applicant, that reduced the accessible surface area by one fifth. Many inmates smoked and the cell was therefore always full of cigarette smoke. The windows were badly insulated and it was very cold in winter. The stinky toilet facilities were separated from the sleeping area by a brick partition and a plastic curtain. The dining table was situated at about a two-metre distance from the toilet facilities. The food was of poor quality. A fridge was available to stock food sent by the family, but the inmates had to pay for using the fridge.

In February 2010 the applicant was transferred for one day to cell no. 97. The windows in that cell could not be entirely closed and had a five-centimetre gap. The inside air temperature was therefore about 0° C.

In May 2009 the applicant complained about the allegedly inhuman conditions of detention to the Vakhitovskiy District Court.

On 28 May 2009 the Vakhitovskiy District Court declared his complaint inadmissible, finding that it was not directly relevant to the criminal proceedings against him.

2. Conditions of transport and confinement in the waiting cells of the remand prison, the police station and the courthouses

Between 25 May 2009 and 25 February 2010 the applicant was brought fifty-nine times to the “Yapeyevo” police station in Kazan to participate in investigative measures. He was also occasionally brought to courthouses for hearings. He left the remand center between 8 and 10.30 a.m. and on most occasions returned there between 4 and 8 p.m. On those days he did not have his daily walk.

On the days of transport the applicant was taken from his cell at 7 a.m., irrespective of whether he had had time to wash himself and take breakfast, and placed in a waiting cell measuring about four square metres, in which he awaited his departure together with fourteen to twenty-two other detainees. He often had to wait in that cell for two or three hours. On several occasions he stayed there until 3 or 4 p.m. without being given any food or water, after which he was brought back to his usual cell.

Although the police station was at about 100 m from the remand prison, the applicant was transported there in a prison van together with five to fourteen other inmates. The van was designed to transport six persons and was divided into several compartments, some of them measuring fifty by fifty centimeters and others measuring two meters by fifty centimeters. There was no heating and it was very cold in winter. In summer it was extremely hot because the ventilation outlets were closed. Similar vans were used to transport the applicant to the courthouses.

The applicant was handcuffed with his hands behind his back on his way to and from the prison van. Sometimes he was chained together with four other inmates. He was forced to jump out of the van from the height of about one metre with his hand handcuffed behind his back.

On those days when the applicant was transported to the courthouse, he was given a lunch bag containing instant soup or porridge. However, given that he was not provided with hot water, he could not eat them and had to remain without food for the entire day. On those days when the applicant was transported to the “Yapeyevo” police station he did not receive any lunch bag.

At the courthouse the applicant was put in a waiting cell until the start of the hearing. In the Vakhitovskiy District Court the waiting cell measured 9 square metres and had no windows. In the Sovetskiy District Court there were six waiting cells which measured each 80 by 150 centimetres. In the Privolzhskiy District Court there were three waiting cells which measured each 100 by 120 centimetres. He had to spend several hours in those cells. On several occasions the applicant remained in the courthouse until 9 or 10 p.m. During the hearings the applicant was placed in a metal cage in the hearing room.

At the “Yapeyevo” police station the applicant was placed in a cell that measured 6.25 square metres together with two to four other persons, some of them suffering from infectious diseases. Almost half of the surface was occupied by a large sleeping bunk. There was no table or chairs. The cell

was dark, dump, stifling and foul-smelling. It had no windows, lavatory bowl or running water. The inmates had to bang against the door for about half an hour before a guard came to bring them to the toilet. On several occasions the guards did not answer their calls for above two hours and the inmates had to relive themselves on the floor. They applicant often remained in that cell for many hours.

Upon return to the remand prison, the applicant was again placed in a waiting cell measuring about seven square metres together with many other inmates. He remained in that cell for up to an hour and a half before being brought to his normal cell. He often returned to his normal cell too late to have dinner.

On several occasions the applicant participated in appeal hearings through a video link. On those days he was put in a waiting cell measuring about 7 square metres together with twenty to forty inmates. He had to remain standing there for between two hours and two hours and a half before being brought to the video link room. He was placed in a metal cage during the video link.

The applicant complained about the conditions of his confinement at the “Yapeyevo” police station before the Vakhitovsky District Court.

On 10 February 2010 the Vakhitovsky District Court dismissed his complaint as unsubstantiated. It found that the applicant had been brought to the “Yapeyevo” police station lawfully. The police station was not equipped with a temporary detention cell. The applicant had been therefore held in a cell for administratively detained persons, separately from such persons. There was no evidence that the cell did not meet the sanitary requirements.

On 6 March 2010 the investigator rejected a similar complaint from the applicant. He noted that the dim light and the absence of a lavatory bowl or running water did not amount to torture or inhuman treatment. The absence of a table and chairs was lawful. The investigator was not responsible for the applicant’s placement in a cell with persons suffering from infectious diseases. Nor was he responsible for the failure to provide the applicant with food. He advised the applicant to raise the above issues before the head of the police station and the remand prison staff.

The applicant sued the Tatarstan Republic Investigations Department for compensation for the allegedly inhuman conditions of confinement at the “Yapeyevo” police station.

On 31 May 2010 the Vakhitovskiy District Court rejected his claim, finding that Investigations Department could not be held responsible for the conditions of the applicant’s detention. On 5 July 2010 the Supreme Court of the Tatarstan Republic upheld the judgment on appeal.

COMPLAINTS

1. The applicant complains under Article 3 of the Convention about the allegedly inhuman conditions of his detention in remand prison no. IZ-16/1 in Kazan. He further complains of the appalling conditions of his transport and of his confinement in the waiting cells of the remand prison, the “Yapeyevo” police station and the courthouses of the Vakhitovskiy,

Sovetskiy and Privolzhskiy District Courts. Finally, he complains of his placement in a metal cage in the hearing room and the video link room.

2. The applicant complains under Article 5 § 3 of the Convention that his detention pending trial was not based on sufficient reasons.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in remand prison no. IZ-16/1 in Kazan 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.

2. Were the conditions of the applicant's transport to and from the "Yapeyevo" police station and the courthouses of the Vakhitovskiy, Sovetskiy and Privolzhskiy District Courts compatible with Article 3 of the Convention?

3. Were the conditions of the applicant's confinement in the waiting cells of the remand prison no. IZ-16/1 in Kazan compatible with Article 3 of the Convention?

4. Were the conditions of the applicant's confinement in the cell for administratively detained persons of the "Yapeyevo" police station compatible with Article 3 of the Convention?

5. Were the conditions of the applicant's confinement in the Vakhitovskiy, Sovetskiy and Privolzhskiy District Courts compatible with Article 3 of the Convention?

6. Was the applicant's placement in a "metal cage" during the hearings compatible with the requirements of Article 3 of the Convention?

7. Was the applicant's detention based on "relevant and sufficient" reasons and were the proceedings conducted with "special diligence", as required by Article 5 § 3 of the Convention?