

June 2011

Shimovolos v. Russia - 30194/09

Judgment 21.6.2011 [Section I]

Article 5

Article 5-1

Deprivation of liberty

Forty-five minute arrest of human rights activist with a view to preventing him committing unspecified administrative and criminal offences: *violation*

Article 8

Article 8-1

Respect for private life

Police listing and surveillance of applicant on account of his membership in a human rights organisation: *violation*

Facts – In May 2007 a European Union-Russia Summit was scheduled to take place in Samara (Russia). At about the same time the applicant's name was registered as a human-rights activist in the so-called "surveillance database". The local authorities were informed that protests were planned during the summit and that it was necessary to stop all members of organisations planning such protests in order to prevent unlawful and extremist acts. They were also informed that the applicant was coming to Samara by train several days before the summit and that he might be carrying extremist literature. When the applicant arrived in Samara, he was stopped by the police and escorted to the police station at around 12.15 p.m. under the threat of force. At the police station the officers drew up an attendance report using a standard template entitled "Attendance report in respect of a person who has committed an administrative offence". However, they crossed out the phrase "who has committed an administrative offence". The applicant was released some 45 minutes later. The police officer who had escorted the applicant to the police station later stated that he had done so in order to prevent him from committing administrative and criminal offences.

Law – Article 5 § 1: Given the element of coercion in bringing the applicant to the police station and notwithstanding the short duration of his arrest, the Court concluded that the applicant had been deprived of his liberty. The applicant was not suspected of having committed any offence, but instead, as submitted by the Government, had been arrested for the purpose of preventing him from committing "offences of an extremist nature". However, no concrete offences which the applicant had to be prevented from committing were ever mentioned and the vague reference to "offences of an extremist nature" was not specific enough to satisfy the requirements of Article 5. The only concrete suspicion against the applicant was that he might be carrying extremist literature, but even that was dispelled when the applicant was found not to have any luggage upon

his arrival in Samara. The applicant was arrested solely because his name had appeared in the "surveillance database" and the only reason for that registration was the fact that he was a human-rights activist. The Court stressed that membership of human-rights organisations could not in any case form sufficient basis for suspicion justifying an individual's arrest. In conclusion, the applicant's arrest could not reasonably be considered to have been necessary to prevent his committing an offence within the meaning of Article 5 § 1 (c).

Conclusion: violation (unanimously).

Article 8: The applicant's name was registered in the "surveillance database", which collected information about his movements, by train or air, within Russia and therefore amounted to an interference with his private life. The creation and maintenance of the database and the procedure for its operation were governed by a ministerial order which had never been published or otherwise made accessible to the public. Consequently, the Court found that the domestic law did not indicate with sufficient clarity the scope and manner of exercise of the discretion conferred on the domestic authorities to collect and store information on individuals' private lives in the database. In particular, it did not set out in a form accessible to the public any indication of the minimum safeguards against abuse.

Conclusion: violation (unanimously).

Article 41: Claim made out of time.

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This summary by the Registry does not bind the Court.

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