



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

THIRD SECTION

Application no. 13463/07
Sergiu APCOV
against the Republic of Moldova and Russia
lodged on 26 March 2007

STATEMENT OF FACTS

The applicant, Mr Sergiu Apcov, is a Moldovan national, who was born in 1982 and lives in Tiraspol. He is represented before the Court by Mr P. Postică, a lawyer practising in Chişinău.

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

On 21 January 2005 the applicant was arrested by the authorities of the break-away “Moldavian Republic of Transdniestria” (the “MRT”) on charges of robbery. He was detained in custody until 8 July 2005 when he was released on bail. During detention he was allegedly detained in very poor conditions with persons infested with HIV and was subjected to ill-treatment. He claims that a doctor infested him with HIV after using the same syringe on all the inmates.

During the criminal proceedings, two and a half years after the robbery, the victim of the robbery was asked to identify the applicant by a picture. Moreover, the applicant’s alibi about him being away from the MRT on the date when the offence was committed was dismissed without any investigation.

On 29 August 2006 the Tiraspol District Court convicted the applicant as charged and sentenced him to seven years’ imprisonment.

The applicant was placed in detention in another detention facility where the conditions were very poor. In particular, his cell was overcrowded, he did not have daily walks, the material conditions were very poor and there were detainees suffering from contagious diseases.

On 26 September 2006 the Supreme Court of the MRT dismissed the applicant’s appeal.

On an unspecified date after his final conviction, the applicant’s mother engaged a lawyer with a view to lodge an application to the Court. She later came to visit the applicant and to obtain his signature on the application form. However, the prison guards refused to allow that on the ground that

the application was not in Russian and that it had to be authorised first by the prison authorities. It appears that she finally succeeded to have the application form signed by the applicant.

COMPLAINTS

1. In respect of his pre-trial detention the applicant complains under Article 3 of the Convention that he has been ill-treated, infested with HIV, detained in poor conditions of detention and refused appropriate medical treatment. As to the second period of detention, after his conviction, the applicant also complains under Article 3 of the Convention about the poor conditions of detention and lack of appropriate medical assistance.

2. The applicant further complains under Article 5 § 1 of the Convention that his detention was not ordered by a lawfully constituted court.

3. The applicant also complains under Article 6 § 1 of the Convention that he was convicted by illegally constituted MRT courts and that the proceedings were unfair.

4. Under Articles 8 and 34 of the Convention, the applicant complains that he could not meet his mother in conditions of confidentiality and that the guardians did not allow him to sign the application form for the purposes of the present case before the Court.

5. The applicant finally complained that he did not have any effective remedies as provided for by Article 13 of the Convention without specifying against which alleged breaches of the Convention.

QUESTIONS TO THE PARTIES

1. Did the applicant come within the jurisdiction of the Republic of Moldova and/or the Russian Federation within the meaning of Article 1 of the Convention as interpreted by the Court, *inter alia*, in the cases of *Ilaşcu and Others v. Moldova and Russia* [GC], (No. 48787/99, ECHR 2004-VII) and *Catan and Others v. Moldova and Russia* [GC] (nos. 43370/04, 8252/05 and 18454/06, §§ 102-123, 19 October 2012) on account of the circumstances of the present case?

2. Has the applicant been subjected to inhuman or degrading treatment in breach of Article 3 of the Convention in so far as his complaint about the conditions of his detention and lack of medical assistance received after conviction is concerned?

3. Do the facts of the case disclose a violation of Article 5 § 1 of the Convention? In particular, is the applicant's detention by the MRT authorities "lawful", within the meaning of Article 5 § 1 of the Convention?

4. Did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention?