



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

15 July 2010

FOURTH SECTION

Application no. 48108/07
by Valentin BESLEAGA
against Moldova and Russia
lodged on 1 November 2007

STATEMENT OF FACTS

THE FACTS

1. The applicant, Mr Valentin Besleaga, is a Moldovan national who was born in 1948 and lives in Corjova. He is represented before the Court by Mr A. Postica, a lawyer practising in Chişinău.

A. The circumstances of the case

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

3. The applicant lives in Corjova, a village under the formal control of Moldovan authorities, but which is de facto controlled by the self-proclaimed “Transnistrian Moldovan Republic” (“MRT”, see *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, § 90, ECHR 2004-VII for further details).

4. On 3 June 2007 local elections were to be held in Moldova, including in Corjova. The applicant, who is an ambulance driver, submitted his candidature for the position of Mayor of Corjova.

5. On 1 June 2007 at 11 p.m. the applicant's ambulance was stopped by the MRT militia and his documents (identity card and driving licence) were taken away from him without any explanation.

6. On 2 June 2007 the applicant went to the MRT militia station located in Dubăsari and asked for the return of his documents. He was then arrested

and placed in a detention cell. A few hours later a person came to his cell and, without presenting himself, asked him about his work and his electoral propaganda. The applicant later found out that the visitor had been a judge and that, following that discussion in the cell, the judge adopted a decision, finding him guilty of the administrative offence of unlawful electoral propaganda and sentencing him to 15 days' administrative detention.

7. The applicant submits that he was not allowed to contact his relatives or to find a lawyer, and was not issued with a copy of the court's decision, which prevented any possibility of lodging an effective appeal against the decision of 2 June 2007.

8. During his detention the applicant was placed in a cell which was damp and cold. Food was given once a day. When the applicant's relatives, alerted by his absence, contacted the local authorities in order to find out about his fate, they were informed of the applicant's detention. However, their requests to transmit food to him were allegedly rejected.

9. On 17 June 2007 the applicant was released from detention and he was issued with a copy of the decision of 2 June 2007. The time-limit for lodging an appeal had already expired by that time. Upon release he was allegedly coughing and was diagnosed with chronic acute bronchitis. He also claims that his eyesight worsened considerably.

COMPLAINTS

1. The applicant complains under Article 3 of the Convention about the inhuman conditions of his detention.

2. He also complains under Article 5 § 1 of the Convention that he was detained for the simple fact of lawfully promoting his own candidature in local elections.

3. He further complains that he was not informed promptly of the reasons for his arrest, contrary to the requirements of Article 5 § 2 of the Convention.

4. The applicant complains under Article 5 § 3 of the Convention that the court which sentenced him to 15 days' detention was not a lawfully constituted court under Moldovan law.

5. He also complains under Article 5 § 4 of the Convention that he could not appeal against the decision sentencing him to 15 days' detention and was prevented from contacting his relatives or hiring a lawyer.

6. He further complains under Article 6 § 2 of the Convention that the principle of presumption of innocence had not been observed.

7. The applicant complains that he did not have a public hearing and that other guarantees under Article 6 § 3 of the Convention had not been observed.

8. He complains of a violation of Article 10 since the sole reason for his arrest was that he had expressed in public his political views.

9. The applicant submits that he had no effective remedies in respect of his complaints under Articles 3, 5, 6 and 10 of the Convention, contrary to the requirements of Article 13 of the Convention.

10. He complains of a violation of Article 3 of Protocol No. 1 to the Convention as his right to vote and to stand for elections was breached.

11. He finally complains under Article 2 of Protocol No. 4 to the Convention that his freedom of movement in his own village had been restricted.

QUESTIONS TO THE PARTIES

1. Do the applicants come within the jurisdiction of Moldova and/or Russia within the meaning of Article 1 of the Convention as interpreted by the Court, *inter alia*, in the case of *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, ECHR 2004-VII on account of the circumstances of the present case?

In particular, in the light of the case of *Ilaşcu and Others*, could the responsibility of the respondent Governments under the Convention be engaged on account of their positive obligations to secure the applicant's rights under the Convention?

Have there been any developments following the *Ilaşcu and Others* case which might affect the responsibility of either Contracting Party?

2. Did the applicant exhaust “all domestic remedies ..., according to the generally recognised rules of international law...”, as required under Article 35 of the Convention?

3. Has there been a violation of Article 3 of the Convention on account of the conditions in which the applicant was detained?

4. Do the facts of the case disclose a violation of Article 5 of the Convention? In particular:

(a) was the applicant's detention by the MRT authorities based on “the lawful detention of a person after conviction by a competent court”, within the meaning of Article 5 § 1 of the Convention (see *Ilaşcu and Others*, § 461 et seq.)?

(b) was the applicant “informed promptly ... of the reasons for his arrest and of any charge against him”, as required by Article 5 § 2 of the Convention?

(c) did the applicant have the practical possibility of appealing to a higher court against the decision ordering his administrative detention, as required under Article 5 § 4 of the Convention? Was he allowed the necessary time and facilities to prepare his defence?

5. Do the facts of the case disclose a violation of Article 6 of the Convention? In particular, did the applicant have “a fair and public hearing ... by an independent and impartial tribunal established by law”?

6. Do the facts of the case disclose a violation of Article 10 of the Convention?

7. Has there been a violation of the applicant's rights guaranteed under Article 2 of Protocol No. 4 to the Convention as a result of the alleged limitations on his “right to liberty of movement”?

8. Did the applicant have at his disposal effective remedies in respect of his complaints under Articles 3, 5, 6 of the Convention and Article 2 of Protocol No. 4 to the Convention, as required under Article 13 of the Convention?