



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

THIRD SECTION

Application no. 64075/11
Eduard ELITOV
against Moldova and Russia
lodged on 10 July 2011

STATEMENT OF FACTS

THE FACTS

The applicant, Mr Eduard Elitov, is a Russian national who was born in 1947 and lives in Tiraspol.

The circumstances of the case

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

The applicant worked as an emergency doctor in Tiraspol, under the control of the self-proclaimed “Moldovan Republic of Transdniestria” (MRT).

1. The applicant’s arrest and conviction

On 23 August 2008 the applicant was arrested on suspicion of seriously injuring another person during a fight. The victim died as a result. The applicant made a number of requests to have his arrest replaced with another preventive measure, but all of them were rejected.

On 28 January 2009 the applicant was convicted by the “Tiraspol city court” and sentenced to five years’ imprisonment. On 16 March 2010 the “MRT Supreme Court” ordered a rehearing of the case.

On 31 August 2011 the “Tiraspol city court” convicted the applicant and sentenced him to seven years’ imprisonment. His appeal against that judgment is pending.

The applicant’s wife asked the Russian embassy in Moldova to intervene in the applicant’s case since he is a Russian national. The embassy asked for

information from the “MRT prosecutor’s office” and forwarded the reply obtained to the applicant’s wife.

2. *Conditions of detention and the applicant’s medical condition*

In 1991 the applicant was the victim of a traffic accident, following which he suffers from a third degree disability.

The applicant has been detained in the pre-trial detention centre of the MRT “Ministry of Internal Affairs” (“IVS Slobozia”) and the pre-trial detention centre “IVS Tiraspol”.

Since 20 July 2010 and until present the applicant has been detained in the surgery section of the “MRT Treatment and Rehabilitation Centre of the detention centre” (“the Centre”). According to medical evidence from that centre, he suffers from arterial blood pressure, chronic ischemic illness of the heart, effects of head trauma, post-traumatic deformation of the knee of third degree with dysfunction of walking and standing. In letters addressed to the applicant’s wife, the Centre’s head mentioned that the medicines prescribed to her husband were unavailable at his institution. He subsequently acknowledged that his institution had received such medications from the applicant’s wife. According to the applicant, the Centre lacks elementary equipment and staff and is unable to offer adequate treatment to him.

During his two-year detention the applicant allegedly lost 16 kg of weight, a lot of his teeth and a significant percentage of his eyesight. He cannot walk normally and even trivial things like going to the toilet cause him enormous physical and moral suffering.

He describes as follows the conditions of detention in the detention centres in which he had been held: the cells are wet and not ventilated, without access to daylight since situated in the cellar, without running water and with a toilet which smells bad in the absence of hygiene products. Cells are full of parasitic insects and rodents; disinfection has never been done during his detention. The applicant is held with 7-8 other persons in cells measuring 12.5 square meters. Food is often inedible. Due to the absence of heating he often cannot sleep and is thus subjected to systematic sleep deprivation.

The applicant was transferred from one detention centre to another in a truck without ventilation or food.

In a report to the “MRT Minister of Justice” of 27 March 2009 the “MRT Ombudsman” found, *inter alia*, a number of shortcomings concerning sanitary conditions, food and staffing at the Centre.

According to the applicant, he has not been allowed to see his wife for over a year, despite their request to the authorities.

COMPLAINTS

1. The applicant complains under Article 2 of the Convention that the absence of medical treatment required by his various serious illnesses poses a real risk to his life.

2. He also complains under Article 3 of the Convention about the insufficient medical treatment, his detention in inhuman conditions, his sleep deprivation and transportation in unbearable conditions with the prison truck.

3. He also complains, under Article 5 § 1 of the Convention that his arrest was based on decisions by the MRT authorities, which did not have the authority to lawfully order his arrest on the territory of Moldova. He also referred to the absence of relevant and sufficient reasons for his prolonged detention.

4. He further complains of a violation of Article 8 of the Convention due to his inability to see his wife for over a year.

5. He finally complains under Article 13 of the Convention that he does not have any remedy in respect of his complaints under Articles 2, 3, 5 and 8 of the Convention.

QUESTIONS TO THE PARTIES

1. Does the applicant 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? In particular:

(a) has the applicant been detained in inhuman and/or degrading conditions?

(b) was he given the medical assistance required by his condition?

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 "lawful", within the meaning of Article 5 § 1 of the Convention (see *Ilaşcu and Others*, § 461 et seq.)?

(b) did the “MRT courts” give “relevant and sufficient reasons”, within the meaning of Article 5 § 3 of the Convention, for their decisions ordering the applicant’s detention pending trial?

5. Do the facts of the case disclose a violation of Article 8 of the Convention as a result of the refusal to allow the applicant visits by his wife?

6. Did the applicant have at his disposal effective remedies in respect of his complaints under Articles 3, 5 and 8 of the Convention, as required under Article 13 of the Convention?