



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

THIRD SECTION

Application no. 33694/12
Andrei REZANOV
against the Republic of Moldova and Russia
lodged on 16 May 2012

STATEMENT OF FACTS

1. The applicant, Mr Andrei Rezanov, is a Moldovan national, who was born in 1986 and is currently detained in Bender. He is represented before the Court by Mr A. Postica, Mr P. Postica, Ms N. Hriplivîi and Mr A. Zubco, lawyers practising in Chişinău.

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

3. The applicant lives in Bender, a town de facto controlled by the authorities of the self-proclaimed “Moldovan Republic of Transdniestria” (“the MRT”).

4. On 11 April 2009 the applicant was arrested by MRT officers and charged with illegal possession of narcotic drugs and selling such drugs to a third person, as well as illegal possession of a weapon and ammunition.

5. He was brought to the preventive detention facility in Bender and held there during 42 days. The applicant describes in the following manner the conditions in that facility: the cell was in a basement, with no access to natural light, the toilet consisted of a bucket in the corner and was a source of constant smells; the situation is aggravated by the lack of ventilation and of access to fresh air, as well as by constant smoking by the detainees. No disinfection was carried out during his entire stay. No hygiene items were available and he had no bed linen. He could take a shower with cold water only.

6. After his transfer to the Tiraspol preventive detention facility (*CI30 VIIH 3*) on 22 May 2009 the conditions did not improve. He was transferred to prison no. 1 in Hlinaia (*VIIH 1*) on 12 May 2010. The conditions there were as follows: the prison is over sixty years old and no serious repair has ever been done there. It was very cold in the cell during the winter and there was no heating. There was no running water in the cell; they had to use plastic bottles with water. The detainees had to wash and dry clothes in the

cell. Food was inedible in all the places of detention in which he was held; he survived due to food brought to him by his relatives.

7. On 12 May 2010 the applicant was convicted by the “Bender city court” and sentenced to fifteen years’ imprisonment. That judgment was upheld by the “MRT Supreme Court” on 6 July 2010. The applicant was not informed of the hearing.

8. On 30 May 2011 the applicant’s wife complained to the Russian Prosecutor General’s Office asking to start a criminal investigation against the persons who had unlawfully deprived the applicant of his liberty. That complaint was forwarded to the Moldovan Prosecutor General’s Office, which in turn forwarded it to the Bender Prosecutor’s Office. On 27 June 2011 the latter started a criminal investigation, but on 16 September 2011 suspended it because the persons responsible for the applicant’s deprivation of liberty could not be identified. That decision was annulled by the investigating judge of the Bender District Court on 8 December 2011, who found that not all witnesses had been heard and information concerning the identity of those involved in the applicant’s deprivation of liberty had not been thoroughly verified.

COMPLAINTS

9. The applicant complains under Article 3 of the Convention that he is being detained in inhuman conditions of detention.

10. He also complains under Article 5 § 1 of the Convention that he is deprived of liberty in breach of the provisions of Moldovan law and by persons not authorised under Moldovan law to carry out such arrests or to convict a person.

11. He further complains under Article 7 of the Convention that he was convicted pursuant to a “law” which was not part of Moldovan law. Moreover, the “MRT law” carried a heavier penalty than the maximum provided for the same offence under the similar provision of the Moldovan Criminal Code.

12. The applicant finally complains under Article 13 of the Convention that he did not have at his disposal effective remedies in respect of his complaints under Articles 3 and 5 of the Convention.

QUESTIONS TO THE PARTIES

1. Does 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 there been a violation of Article 3 of the Convention? In particular, is the applicant detained in inhuman and/or degrading conditions?

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 at his disposal effective remedies in respect of his complaints under Articles 3 and 5 § 1 of the Convention, as required under Article 13 of the Convention?