



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

FIRST SECTION

CASE OF KOROBOV AND OTHERS v. RUSSIA

(Application no. 67086/01)

JUDGMENT

STRASBOURG

27 March 2008

FINAL

27/06/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Korobov and Others v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Khanlar Hajiyev,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 6 March 2008,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 67086/01) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Russian nationals, Mr Anatoliy Yuryevich Korobov, Mr Oleg Yuryevich Savelyev and Mr Dmitriy Vladimirovich Tsyplov (“the applicants”), on 10 August 2000.

2. The applicants, who had been granted legal aid, were represented by Ms K. Kostromina, a lawyer with the International Protection Centre in Moscow. The Russian Government (“the Government”) were represented by Mr P. Laptev, former Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants alleged, in particular, that the conditions of their detention amounted to a violation of Article 3 of the Convention.

4. By a decision of 2 March 2006 the Court declared the application partly admissible.

5. The Government, but not the applicants, filed further written observations (Rule 59 § 1).

THE FACTS

6. The applicants were born in 1979 and live in Ivanovo.

A. Criminal proceedings against the applicants

7. On 1 February 1998 criminal proceedings were brought against the applicants on suspicion that they had beaten up and robbed a passer-by. On 4 February 1998 their detention pending trial was ordered.

8. By a final judgment of the Ivanovo Regional Court of 18 June 1998 the applicants were convicted of aggravated robbery and sentenced to various terms of imprisonment. On 3 December 1999 the judgment was quashed and the case remitted to the police for a fresh investigation. The fresh examination of the case ended with the applicants' being convicted of aggravated robbery by the Regional Court's judgment of 4 May 2000, which was varied by the same court on 23 March 2001 by reclassifying the applicants' actions as affray and theft. The applicants were released from prison in 2001 and 2002.

B. Conditions in detention facility IZ-37/1

1. Duration of detention and cell space per inmate

9. Mr Korobov and Mr Savelyev were held in pre-trial detention facility IZ-37/1 in Ivanovo in seven different cells from 4 February to 14 July 1998, from 14 December 1999 to 23 May 2000 and from 3 to 5 April 2001. Mr Tsyplov was kept in the same detention facility in six different cells from 4 February to 13 July 1998 and from 28 December 1999 to 23 May 2000.

10. According to the applicants, they were kept in cells measuring 20 to 25 sq. m, in which 32 inmates were held at the same time. According to Mr Savelyev, he was also held in cells measuring 15 and 19 sq. m which had 10 and 12 beds and held 24 and 27 detainees respectively. It follows from the applicants' information that there was 0.6 to 0.7 sq. m per person in their cells.

11. According to the Government, the number of detainees was equal to the number of beds. It therefore follows from the Government's detailed information on the surface area and the number of beds in each cell that there was from 1 to 2.2 sq. m per person in the applicants' cells at any given time.

2. Other observations

12. According to the applicants, the cells had no proper ventilation. Being surrounded by heavy smokers, Mr Korobov, who did not smoke, was forced to become a passive smoker. The windows had no glass on them and in winter the prisoners had to cover them with blankets. It was very cold in winter and stuffy in summer. The floor was concrete. The toilet was not

separated from the rest of the area and the detainees themselves had to partition it off with a curtain. There was fungus in the cells. They were infested with cockroaches, bugs and lice. No bedding was provided and the applicants had to obtain it from their families. The food was of poor quality.

13. According to the Government, the minimum duration of the detainees' daily exercise outside their cells was one hour. They could have a shower once a week and were given individual bedding, though between 1998 and 2000, owing to a shortage of funds, they were allowed to obtain missing items of bedding from their families. Ventilation, lighting and heating complied with the relevant standards. In winter the heating was sometimes cut off for short periods, not exceeding twelve hours, owing to malfunctioning of the municipal heating system. The cells were cleaned daily and disinfected weekly. All the inmates underwent a medical examination on arrival. There were no complaints about insects in the cells at the material time. The toilet in each cell was separated by a brick partition between 1.2 and 1.8 m high. It was not completely separated, in order to prevent suicides and sexual offences. The windows in the cells had glass in them. Between 1998 and 2000 the windows were fitted on the outside with shutters made of steel plates welded at an angle of forty-five degrees to ensure sound and visual insulation. On the inside they were fitted with steel bars. In January and February 2003 the shutters were removed throughout the detention facility.

3. Punishment cell

14. According to Mr Korobov, he was disciplined by the prison authorities and placed for seven days in a punishment cell in February 2000. The temperature outside was about minus 27 to minus 30°C and the cell was not heated. It measured 1.5 by 5 metres and was poorly lit. The floor was concrete. A pail, emptied once a day, served as a toilet. The bench was fastened to the wall during the day, so that he could neither lie nor sit. The applicant fell ill with a cold and had a fever. No medical treatment was provided despite his requests.

15. According to the Government, it was impossible to establish whether the applicant had indeed been placed in a punishment cell, as the relevant records had been destroyed on expiry of the three-year statutory storage period. All the punishment cells in the detention facility had central heating, water supply and a sewerage system. The temperature was no lower than 18°C. The cells measured 5.4 sq. m. The walls and the floor were concrete. A metal bunk bed with a wooden cover was lifted and locked to the wall for the period between 6 a.m. and 10 p.m. Bedding was provided for the night's sleep. According to the relevant medical records, Mr Korobov did not request any medical treatment in February 2000. Under the relevant legislation, detainees were placed in punishment cells on the basis of an order from the prison governor and an opinion from a prison medical

officer. Compliance with the legislation was supervised by the prosecutor's office.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

16. The applicants complained under Article 3 of the Convention about the conditions of their detention in pre-trial detention facility IZ-37/1. Mr Korobov also complained about the conditions in the IZ-37/1 punishment cell in which he had allegedly been placed in February 2000. The applicants relied on Article 3 of the Convention, which provides:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

17. The Government claimed that the conditions of the applicants' detention in facility IZ-37/1, as described by them, did not amount to a violation of Article 3.

18. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, among other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). However, to fall under Article 3, ill-treatment must attain a minimum level of severity. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see *Valašinas v. Lithuania*, no. 44558/98, §§ 100-01, ECHR 2001-VIII).

19. The Court has consistently stressed that the suffering and humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment (see *Labzov v. Russia*, no. 62208/00, § 42, 16 June 2005). Measures depriving a person of his liberty may often involve such an element. Nevertheless, under this provision the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI).

20. When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions, as well as the specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

21. The Court notes that it can only examine the applicants' situation after 5 May 1998, the date on which the Convention came into force in respect of Russia. As the applicants were placed in detention facility IZ-37/1 three months earlier, the major part of their detention, namely seven months and twenty days in respect of Mr Korobov and Mr Savelyev and seven months in respect of Mr Tsyplov, took place after that date.

22. The parties disagreed as to the specific conditions of the applicants' detention. Some of the applicants' allegations, for example Mr Korobov's complaints concerning the punishment cell, are not supported by sufficient evidence and, therefore, cannot be proved "beyond reasonable doubt", which is the Court's normal standard of proof (see *Trepashkin v. Russia*, no. 36898/03, § 85, 19 July 2007). However, in the present case the Court does not consider it necessary to establish the truthfulness of each and every allegation made by the applicants, because it finds that there has been a violation of Article 3 on the basis of the facts which have been presented or undisputed by the respondent Government, for the following reasons.

23. The main allegation, which the parties have in principle agreed upon, is that the cells were overpopulated. It follows from the Government's information that there was 1 to 2.2 sq. m per person in the applicants' cells.

24. The Court observes further that the applicants had one hour's exercise each day outside their cells and access to bathing facilities once a week. For the rest of the time they were confined to their cells. The Government argued that the applicants had spent most of their time outside their cells since they had been taken to court hearings and investigation actions, as well as for their meetings with lawyers, families, prison administration and medical examinations. The Court does not find this argument convincing since it is not supported by any evidence as to the applicants' specific situations.

25. The Court has frequently found a violation of Article 3 of the Convention on account of the lack of personal space afforded to detainees (see, in particular, *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., ECHR 2002-VI; *Labzov*, cited above, §§ 44 et seq.; *Mayzit v. Russia*, no. 63378/00, §§ 39 et seq., 20 January 2005; *Khudoyorov v. Russia*, no. 6847/02, §§ 104 et seq., 8 November 2005; *Novoselov v. Russia*, no. 66460/01, §§ 41 et seq., 2 June 2005; and *Popov v. Russia*, no. 26853/04, §§ 215 et seq., 13 July 2006). In those cases the Court considered the extreme lack of space to be the focal point for its analysis of compatibility of the conditions of applicants' detention with Article 3. It found that the fact that an applicant was obliged to live, sleep, and use the toilet in the same cell with so many other inmates was itself sufficient to

cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.

26. The Court reiterates that irrespective of the reasons for the overcrowding, it is incumbent on the respondent Government to organise its penitentiary system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties (see *Mamedova v. Russia*, no. 7064/05, § 63, 1 June 2006, and *Benediktov v. Russia*, no. 106/02, § 37, 10 May 2007).

27. Having regard to its case-law on the subject and the material submitted by the parties, the Court notes that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case.

28. Furthermore, the applicants' situation was aggravated by the fact that the cell windows had been covered with metal shutters which blocked access to fresh air and natural light.

29. The foregoing considerations are sufficient to enable the Court to conclude that the applicants' conditions of detention went beyond the threshold tolerated by Article 3.

30. Therefore, there has been a violation of Article 3 of the Convention on account of the conditions of the applicants' detention in remand facility IZ-37/1 in Ivanovo.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

32. On 8 March 2006, after the present application had been declared partly admissible, the Court invited the applicants to submit their claims for just satisfaction. They did not submit any such claims within the required time-limit. On 15 November 2006 the Court again wrote to the applicants pointing out that they had not submitted claims. It was not until 28 April 2007 that the applicants' counsel replied to the Court stating that the applicants had no further observations.

33. In these circumstances the Court makes no award.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Holds that there has been a violation of Article 3 of the Convention on account of the conditions of the applicants' detention in remand facility IZ-37/1 in Ivanovo.

Done in English, and notified in writing on 27 March 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President