THIRD SECTION

DECISION

Application no. 5001/04
by Sergejs TALANKOVS
against Latvia

The European Court of Human Rights (Third Section), sitting on 4 January 2008 as a Chamber composed of:

 Boštjan M. Zupančič, *President,* Corneliu Bîrsan, Elisabet Fura-Sandström, Egbert Myjer, David Thór Björgvinsson, Ineta Ziemele, Isabelle Berro-Lefèvre, *judges,*
and Stanley Naismith, *Deputy Section Registrar*,

Having regard to the above application lodged on 30 October 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Sergejs Talankovs, is a Latvian permanent resident who was born in 1971 and lives in Rīga. The Latvian Government (“the Government”) were represented by their Agent, Mrs I. Reine.

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

*1.  Detention in the Temporary Detention Unit of the Aizkraukle Police Station*

On 10 December 2001 the applicant was arrested on suspicion of having committed aggravated extortion. Pre-trial detention on remand was imposed on him.

On several occasions, i.e. between 10 and 20 February, 18 and 26 April, 10 and 26 July, 2 and 20 August and from 2 to 12 September 2003, the applicant was placed in the Temporary Detention Unit of the Aizkraukle District Police Station (hereinafter referred to as “the TDU”).

The applicant complained about the poor conditions in the TDU to various domestic authorities on several occasions.

On an unspecified date the Aizkraukle District Police Department replied to the applicant, acknowledging that there was not enough space at the TDU, but asserting that no funding had been received either for renovation of the TDU or for the construction of a new temporary detention unit. Furthermore, the Aizkraukle Police had not received funding for the installation of water pipes, toilets and showers in each cell.

On 8 August 2003 the Central Public Order Police Department (*Galvenā kārtības policijas pārvalde*) replied to the applicant that the TDU needed renovation, which was not possible because of the lack of funding. It was established that the applicant had not requested medical assistance between 10 and 26 July 2003. He was assured that the persons detained in the TDU could receive medical assistance when necessary.

On 19 August 2003 the Aizkraukle District Public Prosecutor’s Office replied to the applicant that the conditions in the TDU were contrary to the requirements of the relevant regulations on temporary detention facilities. The Head of the TDU was informed thereof on 17 January 2003 and was requested either to remedy the deficiencies or to close the TDU. The Prosecutor’s Office stated that neither renovation of the TDU nor considerable improvement of the conditions was possible because of the lack of funding.

On an unspecified date the applicant initiated civil proceedings against the Aizkraukle Police Department, claiming 35,000 Latvian lati (approximately 49,800 EUR) in respect of the non-pecuniary damage he had sustained on account of his detention in the TDU.

On 19 May 2004 the Civil Chamber of the Zemgale Regional Court replied that it could not grant the applicant’s request to summon several witnesses, as the applicant had not indicated the names and addresses of the witnesses and had not stated the reasons why their testimonies were of importance. The court informed the applicant that there was evidence in the case file regarding the poor conditions in the TDU.

On 3 June 2004 the Zemgale Regional Court held a hearing in the case. It established that the applicant had complained *inter alia* about the lack of sufficient light, ventilation, toilet and washing facilities in the cell, the lack of medical assistance and the poor quality of the food. It was acknowledged that the replies of the Aizkraukle Police Department, the Central Public Order Police Department and the public prosecutor of the Aizkraukle District confirmed the applicant’s allegations about the poor conditions in the TDU. However, the court refused to award the applicant any compensation, considering that the Aizkraukle Police Department could not be held liable for the conditions of detention in the TDU, as it had not received the funding it had requested for the renovation of the TDU. Moreover, the court considered that the conditions of detention in the TDU were not inhuman or degrading. It was established that the applicant had not asked for medical assistance during his detention in the TDU. The court found that the applicant had not submitted any evidence in support of his allegations about the poor quality of the food. The applicant was not present at the hearing. He had applied to the court, requesting that his complaint be examined without his presence.

The applicant appealed against the judgment, stating that he had requested and been denied medical assistance during his detention in the TDU. He alleged that he was allowed access to the toilets only twice a day, which was detrimental to his state of health.

On 9 December 2004 the Civil Chamber of the Supreme Court upheld the judgment of the first instance court. It was established that the applicant had not provided any evidence that he had been denied medical assistance. In any event, a medical certificate of 23 January 2004 stated that the applicant was in a good state of health (*praktiski vesels*). As to the remainder of the complaints, the court considered that the Aizkraukle Police Department could not be held liable for the poor conditions in the TDU, as it had not received funding for renovation although it had requested it on several occasions. The court considered that the applicant’s detention in the TDU was not inhuman or degrading. It was established that the applicant had not submitted any evidence as regards the quality of the food he was provided with in the TDU.

On 2 March 2005 the Senate of the Supreme Court dismissed the applicant’s cassation appeal.

*2.  Court proceedings against the applicant*

On 19 August 2003 the Criminal Chamber of the Zemgale Regional Court found the applicant guilty of aggravated extortion and sentenced him to seven years’ imprisonment. In establishing the applicant’s guilt, the court relied on the incriminating statements made by two co-accused and eleven witnesses, on two expert opinions and on documentary evidence. The applicant was represented by legal counsel and assisted by interpreters throughout the proceedings.

On 19 February 2004, on the applicant’s appeal, the Criminal Chamber of the Supreme Court upheld the judgment of the first instance court, reducing the applicant’s sentence to five years’ imprisonment. The court refused the applicant’s request to summon a witness X for examination. It considered that the witness X had testified during the pre-trial investigation on several occasions and that these testimonies were credible. Furthermore, according to the opinions of several experts, it was not recommended for the witness X to participate in the court proceedings, due to her mental state. The applicant was represented by legal counsel and assisted by an interpreter throughout the proceedings.

On 7 June 2004 the Senate of the Supreme Court dismissed the applicant’s cassation appeal.

COMPLAINTS

1.  The applicant complained that his arrest on 10 December 2001 was contrary to the requirements of Article 5 § 2 of the Convention.

2.  The applicant complained under Article 3 of the Convention about the conditions of his detention in the temporary detention unit of the Aizkraukle District Police Station and the lack of medical assistance. He further complained that his stay there was contrary to the requirements of Articles 1, 6 § 2 and 17 of the Convention.

3.  The applicant complained that his conviction on 19 August 2003 was contrary to the requirements of Article 6 §§ 2 and 3 (a), (b), (d) and (e) of the Convention.

THE LAW

On 2 October 2007 the Court received the following declaration signed by the applicant:

“I, Sergejs Talankovs, note that the Government of Latvia are prepared to pay me *ex gratia* the sum of 4 000 Euros with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian *lati* at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Latvia in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

On 21 November 2007 the Court received the following declaration from the Latvian Government:

“I, Inga Reine, Representative of the Government of Latvia, declare that the Government of Latvia offer to pay *ex gratia* 4 000 Euros to Mr Sergejs Talankovs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian *lati* at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to discontinue the application of Article 29 § 3 and to strike the case out of the list.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

 Stanley Naismith Boštjan M. Zupančič
 Deputy Registrar President