



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

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FIFTH SECTION

Application no. 29662/13
Aleksandr Safyanovich SHOYGO
against Ukraine
lodged on 30 April 2013

SUBJECT MATTER OF THE CASE

The application concerns the detention of the applicant, who claims to be either a Russian citizen or a Stateless person, in Ukraine.

The applicant alleges that he was born in 1985 in the Republic of Sakha (Yakutia) in the Russian Federation, in the far north of the country, in a family of reindeer farmers. His birth was not registered. After his mother's death in 1998 his family took away his property and he had to leave. He became a vagrant, lacking any identity documents, travelling in Russia, Belarus and Ukraine and crossing their borders in an irregular manner.

He alleges that the Ukrainian authorities arrested and attempted to expel him on several occasions but that their efforts failed because he lacked documentation as a Russian citizen or any other identity document.

Most recently, on 1 November 2011 the applicant was arrested by the Ukrainian Border Guards while trying to cross into the Republic of Moldova.

On 4 November 2011 the Odessa Circuit Administrative Court, on application from the Border Guards, ordered the applicant's expulsion from Ukraine as well as his detention for up to twelve months pending expulsion. The applicant missed the time-limit for appeal, according to him because he was illiterate and lacked legal representation, but his appeal was eventually accepted and on 16 October 2012 the Odessa Administrative Court of

Appeal upheld the first-instance court's decision. In their decisions the domestic courts stated that the applicant claimed to be a Russian citizen but lacked any identity documents.

Starting on 25 September 2012 the Ukrainian authorities and, following the applicant's release on 1 November 2012, the applicant himself contacted the Russian Embassy in Ukraine in order to obtain documentation for the applicant as a Russian citizen, on the grounds that he had supposedly acquired Russian citizenship as a Soviet citizen who had permanently resided in Russia as of 6 February 1992 (as per section 13 of the Russian Federation's Citizenship Act of 1991).

The Embassy responded that, based on the information provided by the applicant and available to the Embassy, it was not possible to determine whether the applicant was a Russian citizen.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention in the period from 1 November 2011 to 1 November 2012? In particular, in so far as his detention may have been effected under Article 5 § 1 (f) of the Convention, were the proceedings for his expulsion conducted with due diligence (see, for example, *Auad v. Bulgaria*, no. 46390/10, §§ 128-35, 11 October 2011, *Amie and Others v. Bulgaria*, no. 58149/08, §§ 74-79, 12 February 2013, and *Khamroev and Others v. Ukraine*, no. 41651/10, §§ 85 and 90-99, 15 September 2016)?

2. Did the applicant have at his disposal a procedure whereby the lawfulness of his detention, as ordered on 4 November 2011, could be examined by a court and his release be ordered, as required by Article 5 § 4 of the Convention? In particular could the applicant take proceedings by which the lawfulness of his continued detention could be examined or was there a procedure for a periodic review of his detention (see, for example, *Abdulkhakov v. Russia*, no. 14743/11, §§ 210-18, 2 October 2012, and *R. v. Russia*, no. 11916/15, §§ 99-101, 26 January 2016)?

3. Does the applicant have an effective and enforceable right to compensation for his detention allegedly in contravention of Article 5 §§ 1 and 4, as required by Article 5 § 5 of the Convention (see, for example, *Kaboulov v. Ukraine*, no. 41015/04, §§ 158 and 159, 19 November 2009, and *Korban v. Ukraine*, no. 26744/16, § 201, 4 July 2019)?

SHOYGO v. UKRAINE – SUBJECT MATTER OF THE CASE AND QUESTIONS

The parties are invited to inform the Court of any further steps taken to document the applicant's identity and alleged Russian citizenship and his current residence status and situation.