



13 July 2010
For immediate release

European Court rules on Russia: flawed investigation into allegations of police torture and use of unreliable confession breached right to fair trial

Today, the European Court of Human Rights ruled that Russia had conducted a flawed investigation into Aleksandr Lopata's allegations of torture and ill-treatment by police officers in the Republic of Bashkortostan in September 2000 (in violation of Article 3 ECHR). It awarded Mr Lopata 15,000 EUR in damages. The case of *Lopata v Russia* (No. 72250/01) was litigated by the European Human Rights Advocacy Centre (EHRAC) and the Russian NGO, Memorial HRC.

On 5 September 2000, Mr Lopata was arrested and taken to the Uchaly police station where he alleges that he was put under pressure to confess to a murder. He refused. On 8 September 2000 he was taken to an office in the police station where he says that he was repeatedly beaten, punched and kicked, threatened with rape using a truncheon and subject to other ill-treatment at various points in the day and following morning until he finally confessed.

On 13 September 2000, the applicant's lawyer complained to the District Prosecutor's Office about the alleged ill-treatment. An inquiry was opened, but concluded several days later with a refusal to institute criminal proceedings.

The European Court, however, found that shortcomings in the Prosecutor's Office's investigation had *"critically undermined the effectiveness of the investigation and its ability to establish the relevant facts"* in violation of the procedural aspect of Article 3 (prohibition of torture and ill-treatment). Among others, the Court *"had serious reservations concerning the accuracy and reliability"* of a forensic report and said of the applicant's medical examination:

"... although the expert mentioned the applicant's 'complaints about pain in the left ear', he did not consider it necessary to question the applicant about the symptoms and the origin of his condition, or to examine his ear and to write down the applicant's explanations and his own findings."

Nevertheless, despite this finding and the fact that the applicant provided a very detailed description of his alleged ill-treatment and statements by his cellmates and lawyer about injuries on his body on the days following the alleged beatings, the Court was not convinced "beyond all reasonable doubt" that ill-treatment had actually taken place.

The judgment also found a violation of Article 6 (right to fair trial) due to the use of the applicant's confession statement obtained in circumstances which raise doubts as to its voluntary character and his lawyer's inability to gain access to him on the day on which his confession was made and until 12 September 2000. In particular, the lawyer submitted that the authorities had *"intentionally misled her as to the applicant's whereabouts"* on 8 September 2000. As a result the Court held that the most appropriate form of redress would be a re-trial or the reopening of the proceedings, if requested.

Finally, there was a violation of Article 34 (right to individual petition), as the applicant had been 'intimidated' by conversations with officials who visited him in detention in relation to his European Court application and who, according to the applicant, pressured him *"to amend his position concerning his complaints before the Court about the alleged beatings in police custody."*

EHRAC's Director, Prof. Philip Leach, said that:

"It is highly regrettable that the Court's inability to reach a conclusion as regards the applicant's ill-treatment stemmed in large part from the domestic authorities' failure to react effectively to the applicant's complaints."