[Ilgiz Khalikov v. Russia (no. 48724/15)](http://www.prisonlitigation.org/?email_id=99&user_id=140&urlpassed=aHR0cDovL2h1ZG9jLmVjaHIuY29lLmludC9lbmc%2FaT0wMDEtMTg5MTY2&controller=stats&action=analyse&wysija-page=1&wysijap=subscriptions" \t "_blank)

The case concerned a prisoner’s complaint that he had been seriously wounded by a stray bullet during a shoot-out between escorting officers and detainees attempting to escape during their transfer to another facility.

Facts

The applicant and eight other detainees were transported in a prison van designed for a maximum of seven detainees, with three seats for convoy officers. Being a former police officer, the applicant had been placed next to the convoy officers. At some point, three detainees attempted to escape and one of them took hold of an officer’s gun. In the ensuing shooting, the applicant was wounded in the leg by a stray bullet. Subsequently, he filed a complaint of a serious breach of the prisoner transfer regulations. Following a “pre-investigation inquiry”, a decision was adopted, less than a month later, refusing to institute criminal proceedings.

Law

Procedural limb – In many previous cases against the Russian Federation, the Court has highlighted the structural defects of the format of a “pre-investigation inquiry”. When confronted with a credible allegation of ill-treatment, the authorities had the duty to open a criminal case and conduct an investigation. Instead, the inquiry in the instant case was both belated and insufficient in scope and it did not make a serious attempt to establish all the circumstances of the incident or to attribute responsibility for firing the shot that had wounded the applicant. The refusal to open criminal proceedings into the applicant’s credible allegations of failure to protect his physical integrity, of which the authorities were promptly made aware, amounted to a failure to carry out an effective investigation.

Conclusion: violation.

Substantive limb – As to whether or not the State may be held responsible for the applicant’s injury, the Court observed that the applicant was a casualty in a haphazard shooting that followed an abortive escape from prison, in which he played no part. It was undisputed that he had been hit in the leg by chance rather than intention and there was nothing to indicate that anyone took aim at the applicant or meant to harm him.

On the other hand, even though the applicant’s injury was accidental, his presence in the non-secure area of the prison van was the result of the convoy officers’ decision to transport more detainees than the prison van should have accommodated, in breach of the general regulations. As a consequence, there was no separate cell available for the applicant and he had to ride with the guards. Such action also violated the specific regulation relating to the placement of particularly vulnerable categories of prisoners, such as former law-enforcement officers, like the applicant, in separate cells during transportation.

The prisoner transfer regulations were designed with the objective of preventing security incidents such as the one in issue; they limited the number of prisoners that could be transported together to reduce the risk of a concerted attempt on their part to overpower convoy officers. They also sought to avoid cases of inter-prisoner violence by requiring separation of vulnerable detainees.

In the instant case, the convoy officers gave no consideration to the security risks entailed by transporting more prisoners than permitted by the van’s capacity. Irrespective of whether they sought to save fuel or the effort of an extra journey, they acted with disregard for the regulations which had been put in place to protect the well-being and physical integrity of detainees during transfers. In such circumstances, the State had to be held responsible for the failure to provide adequate protection to the applicant’s physical integrity during the transfer.

Conclusion: violation

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