



## Human rights activist detained arbitrarily following registration of his name in a surveillance database

In today's Chamber judgment in the case [Shimovolos v. Russia](#) (application no. 30194/09), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**A violation of Articles 5 § 1 (right to liberty and security) and a violation of Article 8 (right to respect for private life) of the European Convention on Human Rights.**

The case concerned the registration of a human rights activist in a secret surveillance security database and the tracking of his movements and his arrest.

### Principal facts

The applicant, Sergey Shimovolos, is a Russian national who was born in 1969 and lives in Nizhniy Novgorod (Russia). He is the head of the Nizhniy Novgorod Human Rights Union.

The Interior Department of Transport registered his name in a surveillance database which contained information about people perceived by the authorities as "potential extremists", such as, in particular, skinheads and human rights activists. Whenever someone listed in that database bought a train or plane ticket, the Interior Department of Transport was automatically notified.

Thus in May 2007, when Mr Shimovolos got on a train to travel to Samara in connection with a EU-Russia summit and a protest march organised there, three police officers checked his identity papers and asked him about the reason for his travel. His identity documents were checked twice more during his travel.

When Mr Shimovolos got off the train in Samara, the police stopped him, checked his identity yet again and threatened him that force would be used if he did not follow them to the police station. He was kept at the police station between about 12h15 and 13h00 on 14 May 2007. The police questioned him about the purpose of his trip and his acquaintances in Samara. The police report drawn up in connection with his questioning indicated that he had been stopped and taken to the police station in order to prevent him from committing administrative or criminal offences, after information had been received that Mr Shimovolos intended to take part in an opposition rally and might be carrying extremist literature. At the police station, Mr Shimovolos denied involvement in any extremist activities. It was clear that he did not carry extremist literature because he did not have any luggage.

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<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

Sergey Shimovolos complained to the prosecution about his questioning by the police. The prosecutor refused, on three occasions, to open criminal proceedings against the police officers finding that their actions had been lawful.

Mr Shimovolos's brought unsuccessful civil actions before the courts, in May 2007 and in December 2008 respectively, complaining about his arrest and one-hour detention, as well as about the registration of his name in the surveillance database, and that he had been frequently stopped and his identity checked without a reason.

## Complaints, procedure and composition of the Court

Relying on Articles 5 and 8, Mr Shomovolos complained that his arrest had been unlawful and that his name had been registered in the surveillance database as a result of which the police had collected personal data about him.

The application was lodged with the European Court of Human Rights on 5 November 2008.

Judgment was given by a Chamber of seven, composed as follows:

Nina **Vajić** (Croatia), *President*,  
 Anatoly **Kovler** (Russia),  
 Peer **Lorenzen** (Denmark),  
 George **Nicolaou** (Cyprus),  
 Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),  
 Julia **Laffranque** (Estonia),  
 Linos-Alexandre **Sicilianos** (Greece), *Judges*,

and also Søren **Nielsen**, *Section Registrar*.

## Decision of the Court

### Right to liberty and security (Article 5)

The Court observed that Mr Shimovolos had been taken to the police station under threat of force and had not been free to leave without permission. Therefore, he had been deprived of his liberty on 14 May 2007, even though it was for not longer than 45 minutes.

The police had not suspected Mr Shivolos of having committed an offence. Instead, he had been arrested, according to the Government submissions, in order to prevent him from committing offences of an extremist nature. It appeared that he had been stopped, questioned and escorted to the police station in Samara because his name had been registered in the surveillance database. The only reason for that registration had been his involvement as a human rights activist.

The Court recalled that the Convention, and in particular Article 5 § 1 (c), did not allow detention, as a general policy of prevention, of people who were perceived by the authorities, rightly or wrongly, to be dangerous or likely to offend. The Government's explanation that Mr Shimvolos could commit "offences of an extremist nature" was not specific enough to be acceptable under the Convention. The only specific suspicion against him had been that he might have been carrying extremist literature, yet no evidence had been provided to support that suspicion. Apparently, the Court noted with concern, the suspicion had been based on the mere fact that Mr Shimovolos was a member of human rights organisations.

The Court emphasised that membership of human rights institutions could not justify a person's arrest. Consequently, Mr Shivolos had been arrested arbitrarily, in violation of Article 5 § 1.

### Right to respect for private life (article 8)

The Court noted that, by collecting and storing data about the movements of Mr Shimvolos by train or air, the Russian authorities had interfered with his private life. In order for that interference to be justified, the Court recalled, minimum safeguards had to be set out in statute law to avoid abuse. The database in which Mr Shimvolos' name had been registered had been created on the basis of a ministerial order which had not been published and was not accessible to the public. Therefore, people could not know why individuals were registered in it, for how long information was being kept about them, what type of information was included, how the information was stored and used and who had control over that.

As a result, the scope and manner of collecting and using the data in the surveillance database had been neither clear, nor foreseeable, contrary to the requirements of the Convention and in violation of Article 8.

### Other articles

The Court held that no separate issue arose under any other Article of the Convention.

### Just satisfaction (Article 41)

Mr Shimvolos had not asked for just satisfaction, and so the Court did not award him any sum on that account.

*The judgment is available only in English.*

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### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

**Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)**

Emma Hellyer (tel: + 33 3 90 21 42 15)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Frédéric Dolt (tel: + 33 3 90 21 53 39)

Nina Salomon (tel: + 33 3 90 21 49 79)

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.