The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

Court Sees No Politics in Khodorkovsky Arrest

By Alexandra Odynova

May 31, 2011



The European Court of Human Rights on Tuesday rejected former Yukos CEO Mikhail Khodorkovsky's claim that his 2003 arrest was politically motivated but granted him 24,000 euros ($35,000) in damages for violations linked to the detention.

Khodorkovsky, who filed a request for parole last week, praised the ruling, and his lawyers promised to prove a political motive in pending appeals over other aspects of their client's case.

The Strasbourg court said in a statement on its web site that the arrest "might raise some suspicion as to what the real intent of the Russian authorities might have been for prosecuting him."

But it added that "claims of political motivation behind prosecution required incontestable proof, which had not been presented."

While Khodorkovsky's lawyers had argued in court that their client's downfall had benefited his political and business opponents, that did not prove the lack of legal grounds to prosecute him, the ruling said.

In levying the fine on the Russian government, the court said Khodorkovsky's rights were routinely violated during and after his arrest in 2003, with the businessman receiving "inhuman and degrading" treatment and kept in unsanitary conditions.

It said Khodorkovsky's arrest by armed special forces on his private plane at a Siberian airport was illegal because the businessman, who only held the status of a witness in the case at the time, had done nothing to deserve detention.

Khodorkovsky, who was handed an eight-year term for fraud and tax evasion in 2005, was also "humiliated by the security arrangements" in the courtroom, the ruling said, referring to the glass and metal defendant's cage where he was kept during the trial.

Khodorkovsky, whose prison term was extended to 2016 after a second trial in December, and his supporters have long maintained that his legal troubles were orchestrated by Prime Minister Vladimir Putin as punishment for his political and commercial ambitions.

Speaking about the court's refusal to call the case politically motivated, defense lawyer David Pannick said in a conference call that the label "is very rarely applied" by Strasbourg.

Khodorkovsky's press center said the complaint heard Tuesday was filed in 2004, before the verdict was delivered in the first Yukos case, and that "evidence on political motivation had significantly increased" since then.

The court is expected to decide whether to accept a second complaint later this year, said a spokesman for the press center. "The current ruling only relates specifically to Khodorkovsky's 'arrest and detention,'" he said by e-mail. "It's the second application that concerns violations during the first trial and the decision to send him to eastern Siberia to serve his sentence."

If the Strasbourg court backs the second complaint, it would allow the defense to seek "complete remission of the verdict and a retrial," defense lawyer Yury Shmidt told Interfax.

He said additional proof of the case's political motivation had been presented to the court, but not in time for Tuesday's ruling.

The ruling was decided by seven judges from various countries, including Russia.

Russia's representative in the European court, Georgy Matyushkin, said the government would likely appeal the verdict within three months. The ruling will not come into force before then.

Khodorkovsky is "very happy that the court has supported his argument" and will donate the fine to unspecified charities, defense lawyer Karina Moskalenko told Interfax.

The court's refusal to recognize the arrest as politically motivated echoed Amnesty International's decision to designate Khodorkovsky as a "prisoner of conscience" only this

month, after the Moscow City Court rejected an appeal in his second trial. Amnesty was aware of the “political context to the [first] trial” but “hadn't sufficient information about violations,” Amnesty researcher Friederike Behr said by telephone Tuesday.

Khodorkovsky filed for parole last Friday, according to his web site, but the Moscow City Court said Tuesday that it had not yet received the requests, sent by regular mail. A court spokeswoman said the request would be reviewed “within a sensible time frame” after it was received, Interfax reported.

Khodorkovsky can qualify for early release even though he has not pleaded guilty in either case, defense lawyer Vadim Klyuvgant said. Convicts are entitled to parole after serving half of their terms, provided that they did not violate prison rules. The final decision still rests with the judge.

A number of prominent people called for Khodorkovsky's release after the European court ruling Tuesday, including human rights champions Lyudmila Alexeyeva and Svetlana Gannushkina, opposition politicians Vladimir Ryzhkov, Vladimir Milov and Boris Nemtsov, Communist Party leader Gennady Zyuganov and Human Rights Watch representatives.

Expectations that Khodorkovsky might be freed early were raised by his appearance in a report aired on NTV television over the weekend. The apparently unbiased report, broadcast in prime time, marked the first time Khodorkovsky has been allowed to air his side of the story on state television since his arrest.

Many observers say the final say on parole will not rest with a judge but with the Kremlin. Both Putin and President Dmitry Medvedev have kept silent on the issue, although Medvedev said in mid-May that Khodorkovsky would not “pose a danger to society” if released.

Original url:
https://www.themoscowtimes.com/2011/05/31/court-sees-no-politics-in-khodorkovsky-arrest-a7315