



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

FIRST SECTION

Application no. 13308/07
Yuriy Gennadyevich SHESTAKOV
against Russia
lodged on 21 February 2007

STATEMENT OF FACTS

The applicant, Mr Yuriy Gennadyevich Shestakov, is a Russian national, who was born in 1979 and lives in Perm.

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 23 October 2006 the applicant, a former police officer, was arrested on suspicion of his involvement in extortion, fraud and kidnapping.

On 21 December 2006 the Leninskiy District Court of Perm held a hearing in which the prosecutor's application for an extension of the applicant's detention was examined. Mr Kashtayev, counsel retained by the applicant, was sick and the applicant requested the court to postpone the hearing for five days. The court appointed counsel N. to represent the applicant at the hearing. The applicant filed a written objection to the participation of Mr N. on account of their differences of opinion in respect of his line of defence and Mr N.'s limited knowledge of the case materials, yet the District Court proceeded with the hearing and extended the authorised period of the applicant's detention for a further three months.

The applicant and his counsel appealed against the extension order, complaining in particular about a violation of the applicant's right to defend himself through legal assistance of his own choosing. On 18 January 2007 the Perm Regional Court rejected the appeal in a summary fashion, noting that Mr N. had been appointed because the detention matter "had to be examined immediately".

On 19 January 2007 the Leninskiy District Court extended the applicant's detention until 21 February 2007. The applicant filed an appeal; however, he was not informed about the date of the appeal hearing. On 8 February 2007 the Perm Regional Court upheld the extension order; counsel Mr Kashtayev was present and made oral submissions to the appellate court.

On 26 March 2007 the Perm Regional Court held a directions hearing in the preparation for the trial. Neither the applicant nor his counsel were present. The Regional Court extended the custodial measure for the applicant and his co-defendants, without setting a time-limit or giving reasons for that decision. On 14 May 2007 the Supreme Court of the Russian Federation examined the applicant's complaint against the extension order of 26 March 2007 and found, in a summary fashion, that it had been lawful.

On 1 June 2007 the applicant was found guilty and sentenced to seven years' imprisonment in a high-security colony. On 22 September 2008 the Supreme Court of the Russian Federation upheld the conviction on appeal.

COMPLAINTS

The applicant complains under Articles 5 and 6 of the Convention about the replacement of his counsel Mr Kashayev with the lawyer Mr N. at the hearing on 21 December 2006, about the authorities' failure to inform him about the hearing on 8 February 2007, about the judge's refusal to allow his relatives into the courtroom on 20 February 2007, and about the extension of his detention on 26 March 2007 in the absence of the applicant and his lawyer.

The applicant complains under Article 6 §§ 3 (b) and (c) about the authorities' refusal to allow his mother to act as his defence counsel.

Invoking Articles 6 § 3 and 13, he also claims that the courts were biased and that the trial was unfair. According to him, his presumption of innocence was breached by publications in the regional media. Finally, he complains that the trial court refused to obtain attendance of two witnesses for the defence.

QUESTIONS TO THE PARTIES

Was there a violation of Article 5 § 4 of the Convention –

(a) on account of the District Court's decision to conduct the proceedings on 21 December 2006 in the absence of counsel for the applicant Mr Kashayev?

(b) on account of the domestic authorities' failure to inform the applicant of the hearing before the Regional Court on 8 February 2007 and to afford him an opportunity to participate in it?

(c) on account of the fact that the applicant's authorised period of detention was extended on 26 March 2007 in the absence of the applicant and his counsel?

(d) on account of the time it had taken the Supreme Court of the Russian Federation to examine the applicant's appeal against the extension order of 26 March 2007?