



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

FIRST SECTION

Application no. 27034/12
Aleksandr Vasilyevich DEMYANENKO
against Russia
lodged on 10 April 2012

STATEMENT OF FACTS

The applicant, Mr Aleksandr Vasilyevich Demyanenko, is a Russian national, who was born in 1981 and lives in St Petersburg.

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

On 4 November 2010 the applicant was arrested by policemen of a local anti-narcotics unit. They took him to a police station and interrogated him overnight, allegedly using threats and psychological pressure. The next day the applicant was officially charged with drug dealing.

The applicant has not submitted any evidence to confirm the allegations of ill-treatment. It also does not appear that he has raised this issue before any of the competent domestic authorities.

On 6 November 2010 the Primorskiy District Court of St Petersburg (the District Court) remanded the applicant in custody. It found as follows:

“The [District] Court considers that the prosecution’s request to place [the applicant] in custody should be allowed on the basis of the following grounds:

- the investigation had sufficient reasons to open a criminal case against the applicant and to arrest him;
- Mr Demyanenko is accused of a crime which is qualified as a particularly grave one;
- Mr Demyanenko regularly takes drugs and this makes the prosecution and the court believe that if at liberty, the accused might abscond and reoffend ...

[The arguments] that the accused has a job, positive references and does not have a criminal record cannot be considered as unconditional and sufficient grounds to apply to Mr Demyanenko a more lenient measure of restraint”.

The applicant did not appeal against the detention order. It appears that from that day he has been detained in remand prison IZ-47/1 of

St Petersburg except for a period when he was held in a prison hospital for a surgery due to his medical conditions. According to the case file, the medical conditions did not threaten his life or well-being and were being adequately treated by the prison medical service.

On 22 December 2010 the District Court extended the applicant's detention until 1 March 2011. It rejected the request of the defence to apply a more lenient measure of restraint, finding the arguments that the applicant had a registered residence, a job, dependants, good references, and his need for medical assistance unconvincing. The District Court held, in particular:

“Mr Demyanenko is accused of a particularly grave crime ... taking into account the gravity of the charges and the nature of the imputed offence, the Court considers that if at liberty, the applicant might ... abscond and reoffend as he takes drugs ...

As to the argument that Mr Demyanenko needs qualified medical assistance that cannot be provided in the custodial facilities ..., no evidence that he cannot not be held in a remand prison was submitted to the court.”

The defence appealed against this decision.

On 27 January 2011 the St Petersburg City Court (the City Court) found that the extension order had been lawful and reasoned and that it was still necessary to carry out certain investigative actions, and dismissed the appeal.

On 16 February 2011 another criminal case was merged with the applicant's case. As a result, a new set of charges was brought against him.

On 24 February and 23 March 2011 the District Court extended the applicant's detention until 1 April and 1 May 2011, respectively. It stated that the grounds for the applicant's detention, in particular, the gravity of the charges and the possibility of him absconding and reoffending, pertained. The District Court also referred to new charges brought against the applicant after his arrest and to the necessity to carry out more investigative actions. The applicant did not appeal against the above decisions.

On 14 April 2011 the trial commenced.

On 25 April 2011 the District Court held a hearing to resolve some procedural issues of the upcoming trial and to decide on the measure of restraint. With reference to the same reasons as previously, it dismissed a request for the applicant's release lodged by the defence and extended the detention until 14 October 2011.

It appears that in October 2011 the detention was extended at least one more time, until 14 January 2012.

On 10 January 2012 the District Court decided that the applicant should remain in custody until 14 April 2012. It referred to the same grounds as previously:

“... Besides, all the reasons for extending Mr Demyanenko's pre-trial detention pertain at the moment, he is charged with grave and particularly grave crimes..., and as it follows from the criminal case file, he had been taking drugs; if at liberty... [he] might abscond, reoffend... [or] otherwise obstruct justice.”

The applicant appealed, having noted that the reasoning of the District Court was superficial and referring to the fact that he had a registered residence, a job and a family. The applicant pointed out that all witnesses had already been examined and it was impossible to influence them.

On 5 March 2012, already after the trial proceedings commenced before the District Court, the City Court rejected this appeal. It held:

“As to the [applicant’s] arguments that the trial court has examined all witnesses, it is not an unconditional and sufficient ground for changing the measure of restraint, as other [kinds of] evidence could be produced by the parties at later stages of the trial.

...

The [District] court’s conclusion that the grounds for application and extension of the custodial measure still pertain, is correct, as no new information was submitted.

...

Despite the [applicant’s appeal] complaint, the gravity of the charges was not the only ground for placing Mr Demyanenko in custody, that was rather considered by the [District] court in the context of the other circumstances. The [District] court referred to specific facts necessitating extension of Mr Demyanenko’s detention.

The existence of a registered place of residence, of a job, of positive references, lack of criminal record and [the applicant’s] state of health... were considered by the [District] court in the context of all the other circumstances [and] it was rightfully decided that they do not affect the measure of restraint.

The arguments concerning Mr Demyanenko’s serious chronic illnesses are not an unconditional and sufficient reason for quashing the [District] court’s decision. No medical documents proving that the applicant cannot be held in custody were submitted either to the District or to the City Court.”

It appears that the criminal proceedings are still pending.

COMPLAINTS

1. Under Article 3 of the Convention the applicant complains of threats and psychological pressure from the policemen after the arrest.
2. Under the same Article the applicant complains of the lack of medical assistance in the remand prison.
3. The applicant complains under Article 5 of the Convention that his pre-trial detention was unreasonably long and was not based on relevant and sufficient grounds.

QUESTIONS TO THE PARTIES

1. Was the length of the pre-trial detention of the applicant in breach of the “reasonable time” requirement of Article 5 § 3 of the Convention?
2. Did the domestic courts’ decisions extending his detention contained on “relevant and sufficient” reasons?