



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

Communicated on 17 February 2014

FIRST SECTION

Application no. 35264/09
Aleksandr Valentinovich BODROV and others
against Russia
lodged on 8 May 2009

STATEMENT OF FACTS

The first applicant is Aleksandr Valentinovich Bodrov, born on 16 January 1966. The second applicant is Nataliya Sergeyevna Yurkova, born on 16 June 1984. The third applicant is Oksana Gabdelraufovna Kamaltdinova, born on 19 July 1974. All the applicants are Russian nationals who, prior to their arrest and conviction, lived in Ufa, Republic of Bashkortostan. The first and third applicants are husband and wife.

The circumstances of the case

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

1. The first applicant's arrest and pre-trial detention

On 12 January 2008 the first applicant was arrested on suspicion of theft.

On the same date the Kalininskiy District Court of Ufa authorised the applicant's remand in custody pending criminal proceedings against him. The court reasoned as follows:

“[The judge] considers it necessary to remand [the applicant] in custody given that [he] is charged with large-scale theft. [T]he court takes into account the gravity of the charges.”

On 12 February 2008 the Supreme Court of the Republic of Bashkortostan upheld the decision of 12 January 2008 on appeal.

On 14 January 2008 the third applicant was charged with the same crime and released on her own recognisance. On 20 February 2008 the proceedings in respect of the third applicant were discontinued.

On 11 March 2008 the District Court extended the first applicant's detention until 10 May 2008¹. On 25 March 2008 the Supreme Court upheld the decision of 11 March 2008 on appeal, noting as follows:

“[The applicant] is charged with a very serious offence, he may influence the investigation [or] abscond. The grounds for remanding him in custody have not ceased to exist.”

On 8 May 2008 the District Court extended the first applicant's detention until 10 June 2008. The court reasoned as follows:

“... having examined the materials in the case file, the court considers it possible to extend the [first applicant's] detention ... in view of the gravity of the charges against him.”

On 5 June 2008 the third applicant was charged with large-scale theft.

On 10 June 2008 the District Court conducted a hearing on the extension of the first applicant's pre-trial detention. Counsel K., retained by the applicant, failed to appear. The court considered it possible to hold the hearing in his absence, given that he had been duly notified of its date and time. The court appointed another lawyer, L., to represent the applicant. The court further ordered that the first applicant be removed from the courtroom, noting as follows:

“... [the first applicant] made insulting remarks to the court. [He] ignored the presiding judge's admonishments and continued with his insults, preventing the holding of the hearing.”

The District Court dismissed the arguments furnished by the defense that the first applicant had a permanent place of residence and a family, and extended his detention until 10 September 2008. It reasoned as follows:

“It transpires from the materials submitted to the court that [the first applicant] is charged with a very serious offence entailing a custodial sentence of up to ten years. Given the gravity of the charges, [the first applicant] might abscond, thereby obstructing the establishment of the truth.”

On 26 June and 21 August 2008 the Supreme Court upheld the decisions of 8 May and 10 June 2008 respectively on appeal. The first applicant attended both hearings and made submissions to the court. His lawyer was present only at the hearing held on 26 June 2008.

On an unspecified date the first applicant was further charged with organising a criminal group, and producing and using counterfeit money and documents.

On 4 September 2008 the Leninskiy District Court of Ufa extended the first applicant's detention until 10 November 2008. The court noted as follows:

“Regard being had to the [first applicant's] role in the crime with which he is charged, it is not possible to replace the measure of restraint imposed previously with another one that does not involve remand in custody. He is charged with a serious offence. The other perpetrators are still at liberty. If released, he might interfere with the establishment of the truth.”

On 1 November 2008 the District Court extended the first applicant's detention until 11 January 2009. The court reiterated verbatim its reasoning of 4 September 2008.

¹ The applicant did not provide a copy of the relevant decision.

On 20 and 25 November 2008 the Supreme Court upheld on appeal the decisions of 4 September and 1 November 2008 respectively.

On 19 December 2008 the investigator in charge of the applicant's case examined the issue of the first applicant's detention. The investigator noted that the first applicant had been arrested on 12 January 2008 and that the twelve months' period of his detention would expire on 12 January 2009. On 22 December 2008 the District Court upheld the investigator's decision of 19 December 2008. On 17 February 2009 the Supreme Court upheld the decision of 19 December on appeal. The court rejected as contradictory to the materials of the case file the applicant's allegation that he had been arrested on 10 January 2008.

On 31 December 2008 the Supreme Court extended the applicant's detention until 12 April 2009. The court examined and dismissed as unsubstantiated the first applicant's argument that he had been arrested on 10 January 2008. The court reasoned as follows:

"... the circumstances underlying the [first applicant's] remand in custody have not ceased to exist. His remand in custody was justified given that he is charged with serious and particularly serious offences committed by an organised criminal group ...".

On 10 March 2009 the Supreme Court of the Russian Federation upheld the decision of 31 December 2008 on appeal.

On 7 April 2009 the Supreme Court of the Bashkortostan Republic extended the first applicant's detention until 12 June 2009, reasoning as follows:

"... [the first applicant] is charged with serious and particularly serious offences, his remand in custody was justified, there are no circumstances that would allow his release."

On 27 April 2009 the investigation was completed and the first applicant started studying the case file. During the period between 30 April and 7 May 2009, the first applicant studied seventeen volumes of the case file. His lawyer, K., studied ten volumes.

On 8 May 2009 the District Court ruled that the first applicant was to complete his study of the case file by 1 June 2009. The court took into account that on 1, 2 and 7 May 2009 the first applicant had refused to study the case file without any explanation; his behaviour had had a negative impact on the course of the criminal proceedings and interfered with the right of 460 victims of the crime to a speedy trial. The applicant appealed but later withdrew his statement of appeal. On 23 July 2009 the Supreme Court discontinued the appeal proceedings.

On 29 May 2009 the Supreme Court extended the first applicant's detention until 12 July 2009. The court held as follows:

"[The first applicant] is charged with serious and particularly serious offences. If left at liberty, he might abscond, continue criminal activities, threaten witnesses, destroy evidence or otherwise interfere with the establishment of the truth. As regards his state of health, [the first applicant] is fit for detention in a remand prison. Regard being had to the above, the court does not discern any circumstances justifying [the first applicant's release from custody]."

On 1 June 2009 the investigator in charge of the case noted that the time-limit established for the first applicant to study the case file had expired. The first applicant had studied thirty-one volumes of the case file and all the

tape-recorded evidence. His lawyer had studied the whole case file. The investigator discerned no extenuating circumstances justifying the applicant's failure to study the complete case file and refused to extend the relevant time-limit.

On 17 June 2009 the Supreme Court of the Russian Federation upheld the decision of 7 April 2009 on appeal. The court held the hearing in the absence of the first applicant and his lawyer. It considered that the first applicant's position had been clearly and precisely formulated in the statements of appeal prepared by him and his lawyer. Accordingly, the court dismissed the first applicant's request to participate in the hearing, noting that he had failed to substantiate it.

2. The second applicant's arrest and pre-trial detention

On 8 April 2008 the second applicant was arrested on suspicion of having produced and used counterfeit money. On 9 April the Leninskiy District Court authorised her remand in custody pending investigation. She did not appeal. Her pre-trial detention was further extended on 25 May 2008¹.

On 16 July 2008 the District Court extended the second applicant's detention until 18 September 2008. The court reasoned as follows:

“[The second applicant] is charged with a serious offence which entails a custodial sentence of between five and eight years. Other perpetrators are currently at large. Accordingly, if [she] is released, she might interfere with the establishment of the truth. There are no circumstances that would allow [the court to release the second applicant].”

On 28 August 2008 the Supreme Court upheld the decision of 16 July 2008 on appeal.

The second applicant's detention was further extended on 4 September and 10 November 2008².

On 5 February 2009 the District Court extended the second applicant's detention until 8 April 2008, reasoning as follows:

“There are no circumstances that would allow [the court to release the second applicant]. She is charged with serious and particularly serious offences. Other perpetrators are currently at large. Accordingly, if [the second applicant] is released, she might interfere with the establishment of the truth and threaten other parties to the criminal proceedings.”

On 6 April 2009 the Supreme Court extended the second applicant's detention until 12 June 2009. The court reasoned as follows:

“... the circumstances underlying the [second applicant's] remand in custody have not changed. The measure of restraint imposed on her was justified. She is charged with serious and particularly serious offences committed by an organised criminal group ...”.

On 10 June 2009 the Supreme Court of the Russian Federation upheld the decision of 6 April 2009 on appeal. The court dismissed the applicant's request to be present at the appeal hearing, noting that she had clearly stated her position in her statement of appeal.

¹ The applicant did not provide a copy of the relevant decision.

² The applicant did not provide a copy of the relevant decisions.

On 29 May 2009 the Supreme Court extended the second applicant's detention until 12 July 2009. The court held as follows:

“[The second applicant] is charged with serious and particularly serious offences. If left at liberty, she might abscond, continue criminal activities, threaten witnesses, destroy evidence or otherwise interfere with the establishment of the truth. Accordingly, there are no grounds justifying the lifting or change of the measure of restraint imposed on her.”

3. The third applicant's arrest and pre-trial detention

On 19 March 2008 the third applicant was arrested. On the same date the Leninskiy District Court authorised her remand in custody pending investigation.

Her pre-trial detention was further extended on 8 May, 10 July, 12 September and 31 October 2008.

On 15 January 2009 the Supreme Court considered an appeal lodged by the first applicant against the detention order of 31 October 2008. The court noted that the first applicant had not been authorised to represent the third applicant's interests and dismissed his appeal without consideration on the merits.

On 2 February 2009 the District Court extended the third applicant's detention until 19 March 2009, noting that it discerned no grounds that would justify changing the measure of restraint imposed on her. On 19 March 2009 the Supreme Court upheld the relevant decision on appeal.

On 17 March 2009 the Supreme Court extended the third applicant's detention until 12 April 2009. The court reasoned as follows:

“... the circumstances underlying the [third applicant's] remand in custody have not changed. The measure of restraint imposed on the applicant was justified. She is charged with serious and particularly serious offences committed by an organised group.”

On the same day the Supreme Court noted that its earlier decision indicated erroneously the date of the third applicant's detention and specified that she should be detained until 12 June 2009.

On 20 May 2009 the Supreme Court of the Russian Federation upheld the decision of 17 March 2009 on appeal. The court examined the matter in the third applicant's absence, noting that her position had been clearly stated in her statement of appeal.

On 29 May 2009 the Supreme Court extended the third applicant's detention until 12 July 2009, reiterating its reasoning provided in the relevant decisions taken on the same date in respect of the first and second applicants.

4. Trial

On 10 July 2009 the Oktyabskiy District Court of Ufa scheduled the preliminary hearing of the case for 15 July 2009. It further ruled that the first, second and third applicants and S. (a fourth accused) should remain in custody pending trial. The other four defendants continued to be at liberty on their own recognisance. Lastly, the court granted the first applicant additional time, from 10 to 21 July 2009, to study the case file. The court noted as follows:

“The measure of restraint imposed on the defendants shall not be changed. The circumstances which were taken into account by the court when applying it have not ceased to exist. It is still necessary to detain [the first, second and third applicants] and S.”

On 15 July 2009 the District Court scheduled the trial for 21 July 2009. On 8 September 2009 the Supreme Court upheld the said decision on appeal.

On 4 August 2009 the Supreme Court upheld the decision of 10 July 2009 on appeal.

On 19 August 2009 the Supreme Court of the Russian Federation upheld the decision of 29 May 2009 on appeal. The court held the hearing in the absence of the applicants. It considered that the applicants’ position had been clearly and precisely formulated in their statements of appeal. It appears that their lawyers were not present either.

On 21 December 2009 the District Court extended the applicants’ detention until 23 March 2010, noting as follows:

“The circumstances underlying the defendants’ remand in custody have not changed or ceased to exist. No new arguments that could justify [the applicants’ release] were presented to the court.”

On an unspecified date the first applicant appealed against the decision of 21 December 2009 and asked the court to ensure his participation in the appeal hearing. On 24 February 2010 the District Court granted the first applicant’s request and ruled that he could participate in the appeal hearing by means of a video link. On 2 March 2010 the Supreme Court upheld the decision of 21 December 2009 on appeal. The court held the hearing in the first applicant’s absence. According to the administration of the remand prison, the first applicant refused to take part in the hearing. His lawyer, B., was present and made submissions to the court.

On 15 March 2010 the District Court extended the applicants’ and S.’s detention until 25 June 2010. The court reiterated its reasoning from the decision of 21 December 2009.

On 7 May 2010 the District Court found the first applicant guilty of theft, production and use of counterfeit money, document forgery, money laundering, and involvement of a minor in criminal activities, and sentenced him to twenty years’ imprisonment. It found the second applicant guilty of one count of production and use of counterfeit money and sentenced her to four years’ imprisonment. Lastly, it found the third applicant guilty of theft and production and use of counterfeit money, and sentenced her to six years’ imprisonment.

On 18 May 2010 the Supreme Court upheld the decision of 15 March 2010 on appeal. The applicant and S. participated in the hearing by means of a video link. The second and third applicants did not appeal against the said decision.

On 11 November 2010 the Supreme Court upheld, in substance, the first and second applicants’ conviction on appeal. The third applicant did not appeal against her conviction.

COMPLAINT

The applicants complain, under Article 5 of the Convention, about the length of their pre-trial detention.

QUESTION TO THE PARTIES

Was the length of the applicants' pre-trial detention in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention?