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

THIRD SECTION

DECISION

Application no. 13546/06
Vladislav Borisovich MOISEYENKO
against Russia

The European Court of Human Rights (Third Section), sitting on 20 September 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 4 February 2006,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vladislav Borisovich Moiseyenko, is a Russian national who was born in 1969 and lives in Orel. His application was lodged on 4 February 2006. He was represented before the Court by Mr S. G. Lubenskiy, a lawyer practising in Orel.

The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights.

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

On 29 June 1999 the Orel Regional Court convicted the applicant of banditry, the illegal possession and sale of firearms, theft and multiple counts of aggravated murder as part of a gang. The court sentenced the applicant to fifteen years' imprisonment.

On 24 June 2005 a judge at the Uritskiy District Court of the Orel Region ordered the applicant's conditional early release from prison (parole).

On 21 July 2005 the regional prosecutor, in accordance with the Code of Criminal Procedure, asked the President of the Regional Court to initiate a supervisory review of the decision of 24 June 2005.

On 18 August 2005 the Presidium of the Orel Regional Court quashed the decision of 24 June 2005 via supervisory review on the grounds that the lower court had wrongly considered that the applicant had been ready for release and that, in violation of Article 399 of the Code of Criminal Procedure, the victims and the prosecutor had not been summoned to the hearings. The Presidium did not refer to any violation of the law or to any delinquency on the part of the applicant.

On 1 September 2005 a judge at the Uritskiy District Court of the Orel Region withdrew permission for the applicant's conditional early release and the applicant was put back in prison. On 11 October 2005 the Orel Regional Court upheld the decision on appeal.

COMPLAINT

The applicant complained under Article 5 § 1 (a) of the Convention about his unlawful detention subsequent to the quashing of the order for his conditional release.

THE LAW

The applicant complained that his detention after 18 August 2005 was incompatible with Article 5 § 1 (a) of the Convention, which provides, in so far as relevant, as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> (a) the lawful detention of a person after conviction by a competent court;..."

The Court notes that the applicant's complaint relates to the proceedings concerning his conditional release. It reiterates that the Convention does not confer, as such, a right to release on licence or require that parole decisions be taken by or be subject to review by a court. A penalty involving deprivation of liberty which the offender must undergo for a period specified in a court decision is justified at the outset by the original conviction and appeal proceedings (see, *mutatis mutandis*, *Van Droogenbroeck v. Belgium*, 24 June 1982, §§ 39-40, Series A no. 50). In the

present case, the order for the applicant's conditional release did not in any way affect the validity of the trial court's judgment. There is nothing to indicate that the causal link between the conviction and the re-detention was broken (see *Ganusauskas v. Lithuania* (dec.), no. 47922/99, 7 September 1999, with further references).

Consequently, the applicant's recall to prison before the expiry of his sentence was compatible with Article 5 § 1 (a) of the Convention. Therefore, the Court does not deem it necessary to scrutinise the revocation proceedings in the present case (see *Ganusauskas*, cited above).

It follows that the application must be rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 October 2016.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President