



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

FIRST SECTION

Application no. 14672/07
Sergey Nikolayevich FIRSOV against Russia
lodged on 15 February 2007

STATEMENT OF FACTS

The applicant, Mr Sergey Nikolayevich Firsov, is a Russian national who was born in 1970 and lives in Kineshma, a town in the Ivanovo region.

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

On 14 June 2006 police arrested the applicant on suspicion of extortion in conspiracy with others.

On 16 June 2006 the Ivanovo Oktyabrskiy District Court (“the District Court”) granted the investigator’s request to place the applicant in detention. The District Court found, in particular, that the applicant had been charged with a particularly serious offence and that materials submitted by the prosecution confirmed the applicant’s involvement in a criminal offence. It further held that the applicant was suspected of being involved in extortion as a member of an organised criminal group and, therefore, he could put pressure on witnesses and victims, destroy evidence, continue criminal activities, or abscond. The District Court also considered that it had not been possible to apply other preventive measures in respect of the applicant.

The District Court further extended the applicant’s detention on 10 August, 24 November and 19 December 2006 and 26 April 2007, for a total duration of twelve months, on the same grounds as before. The Ivanovo Regional Court (“the Regional Court”) upheld these detention orders on appeal.

Further extensions of the applicant’s detention were ordered by the Regional Court on 14 June, 27 August, 25 October and 24 December 2007.

On 30 January 2008 the prosecution authorities referred the criminal case against the applicant and his co-defendants to the Regional Court for trial.

At the preliminary hearing on 28 February 2008 the Ivanovo Regional Court determined that the case should be returned to the Ivanovo regional prosecutor to have factual inconsistencies and legal defects remedied within

five days. As regards the custodial measure, the Regional Court held as follows:

“[The applicant and his co-defendants] stand accused of committing, over a long period of time, a great number of serious and particularly serious crimes, as part of a large-scale organised criminal group which was formed for the purpose of committing serious and particularly serious crimes. When deciding on the custodial measure, the court took the above-mentioned circumstances into account and also had regard to the fact that, if released, they may reoffend, abscond from justice, interfere with the establishment of the truth, or exert pressure on victims or witnesses. The said circumstances still obtain, which is confirmed by the number, nature and degree of public dangerousness of the crimes imputed to the defendants.

In this connection, the court sees no reason to vary the custodial measure.”

On 17 March 2008 the Ivanovo regional prosecutor’s office received the case and resumed the proceedings.

On 18 March 2008 the applicant was presented with a final version of the charges. In addition to the charges of extortion he was charged with organisation of a criminal group.

On 21 March 2008 the Regional Court extended the applicant’s detention until 21 May 2008, bringing its total duration to twenty-one months and twenty days. The Regional Court had regard to the gravity of the charges against the applicant and to the risk that he would abscond or interfere with the proceedings.

On 6 May 2008 the prosecuting authorities resubmitted the case to the Regional Court for trial.

On 21 May 2008 the Regional Court held a preliminary hearing and set the examination of the case for 23 June 2008. By the same decision the Regional Court ordered the applicant to be released under a written undertaking.

On 18 September 2009 the jury found the applicant not guilty. On 27 November 2009 the Regional Court, on the basis of the jury’s verdict, acquitted the applicant of all the charges.

It follows from the information provided on the official site of the Regional Court that on 8 December 2010 the Supreme Court of the Russian Federation upheld the judgment of 27 November 2009.

COMPLAINTS

A. Complaints lodged on 15 February and 2 October 2007

1. The applicant complained under Article 3 that his lengthy pre-trial detention amounted to torture.

2. The applicant complained under Article 5 that his pre-trial detention had not been duly justified and had been unreasonably long.

3. He also complained under Articles 6 and 13 that he could not confront witnesses to whose testimony the courts referred when ordering and extending his detention.

B. Complaints lodged on 27 January 2010

1. The applicant complained under Article 5 that his detention between 29 February and 20 March 2008 had been unlawful.

The applicant complained under Article 6 that the criminal proceedings against him had been unreasonably long.

QUESTIONS TO THE PARTIES

1. What is the current state of criminal proceedings against the applicant on charges of extortion and organising a criminal group?

2. Did the applicant bring proceedings for compensation for damage sustained as a result of unlawful criminal prosecution and unlawful detention? If so, what was the outcome of these proceedings? The Government are required to provide copies of any decisions issued in this respect. If the applicant did bring proceedings for compensation for damage sustained as a result of unlawful criminal prosecution and unlawful detention, may he still claim to be a victim, within the meaning of Article 34 of the Convention, of a violation of Article 5 § 3 of the Convention (see *Trepashkin v. Russia*, no. 36898/03, §§ 69-74, 19 July 2007)? Have the decisions which were issued as a result of these proceedings, if any, been enforced in full and without delay? If the applicant did not bring such proceedings, did he exhaust domestic remedies in respect of his complaint under Article 5 § 3 of the Convention, as required by Article 35 of the Convention?

3. If the applicant may still claim to be a victim of a violation of Article 5 § 3, was the length of the applicant's detention in breach of the "reasonable time" requirement of that provision? In particular, did the authorities cite "relevant and sufficient reasons" for the applicant's continuing detention? Were the proceedings conducted with "special diligence"?

The Government are also requested to submit copies of the following documents:

- all court decisions extending the applicant's detention, as well as the applicant's appeals against these decisions and the decisions of the appeal court which are missing from the file;
- decision of the Supreme Court of the Russian Federation of 8 December 2010.