



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

FIRST SECTION

Application no. 44204/05
Sergey Sergeyevich NAUMKIN against Russia
lodged on 14 November 2005

STATEMENT OF FACTS

The applicant, Mr Sergey Sergeyevich Naumkin, is a Russian national who was born on 3 December 1979 and lives in Ussuriysk, Primorskiy Region. His application was lodged with the Court on 14 November 2005.

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

A. Criminal proceedings against the applicant

At the material time the applicant worked in the investigating department of the Internal Affairs Department of Ussuriysk, Primorskiy Region.

On 1 April 2001 a criminal case was opened against the applicant for abuse of authority. As a measure of restraint he signed an undertaking not to leave.

By a judgment dated 31 March 2006 the Ussuriysk Town Court of the Primorskiy Region convicted the applicant.

On 28 May 2007 the Primorskiy Regional Court quashed the above judgment and remitted the case for a fresh consideration. The parties applied for supervisory review of this decision.

On 6 July 2007 the Presidium of the Primorskiy Regional Court granted the application, quashed the appeal decision by way of supervisory review and required a new hearing by the appeal court.

On 14 August 2007 the Primorskiy Regional Court upheld the conviction of 31 March 2006 on appeal.

B. Claim for compensation of damages for unlawful detention

On 11 March 2004 the Ussuriysk Town Court of the Primorskiy Region decided to place the applicant on remand. The court based its decision on the arguments that the defendant: (i) obstructed the consideration of the

case; (ii) intentionally delayed the proceedings; (iii) did not obey the judge's instructions; and (iv) used offensive language in relation to the other participants in the proceedings. According to the court, the applicant was warned of penalties several times, as reflected in the minutes of the hearing. Finally, the court stated that the applicant was accused of a grave crime and used his official post to collect evidence in his favour.

On 29 March 2004 the Primorskiy Regional Court set aside this decision on appeal. The appeal court noted that the first-instance court's decision to place the applicant on remand had lacked sufficient grounds: the court had failed to specify how the applicant had breached his undertaking not to leave. Furthermore, the case-file lacked information concerning penalties imposed on the applicant in connection with the alleged misbehaviour. Finally, the court rejected the argument that the applicant had used his official post to collect favourable evidence, as by that time he had already been dismissed from his office and, therefore, these grounds had become irrelevant.

On 19 April 2004 the applicant brought a claim to the Ussuriysk Town Court of the Primorskiy Region against the Ministry of Finance of the Russian Federation for compensation of non-pecuniary damage for his detention between 11 and 30 March 2004.

On 10 June 2005 the Ussuriysk Town Court of the Primorskiy Region terminated the proceedings in relation to the applicant's claim. In its reasoning the court noted that the criminal case against the applicant was still pending. Furthermore, placing him on remand did not constitute a measure of restraint (*«мера процессуального принуждения»*) within the meaning given by the Code of Criminal Procedure of the Russian Federation. In these circumstances, the court considered that the applicant was not entitled to rehabilitation and compensation of damage, as guaranteed by Article 133 of the Code of Criminal Procedure.

On 3 August 2005 the Primorskiy Regional Court upheld the above decision on appeal.

On 5 June 2006 the Supreme Court of the Russian Federation called up the applicant's case to be considered by way of supervisory review by the Presidium of the Primorskiy Regional Court. The court agreed with the applicant's arguments substantiating that the first-instance court ought to have considered his claim on the merits.

On 28 July 2006 the Presidium of the Primorskiy Regional Court quashed in supervisory review the decisions of the Ussuriysk Town Court of the Primorskiy Region and Primorskiy Regional Court dated 10 June 2005 and 3 August 2005 and remitted the case for fresh consideration to the first-instance court.

On 26 October 2006 the Ussuriysk Town Court of the Primorskiy Region granted the applicant's claim in part and awarded him 25,000 Russian roubles as compensation for non-pecuniary damage.

On 14 December 2006 the Primorskiy Regional Court quashed the above judgment on appeal. It noted that the first instance court acted within its competence when placing the applicant on remand. It further considered that the applicant's right to compensation of non-pecuniary damage could arise only in the case of his full rehabilitation, whereas the consideration of the criminal case against him was pending.

COMPLAINTS

1. The applicant complains under Article 6 § 1 of the Convention of unreasonable length of the court proceedings concerning the criminal case against him and the claim for compensation of damages.

2. The applicant also complains under Article 5 of the Convention of unlawful detention between 11 and 30 March 2004.

3. The applicant further complains under Article 5 § 5 of the Convention of a violation of his right to compensation guaranteed by that Article.

4. He further complains under Article 3 of the Convention of inhuman and degrading treatment in detention.

5. Finally, the applicant complains under Article 6 § 1 that the criminal proceedings against him at the first instance were unfair, that the trial court examining the criminal case against him was not independent and impartial and was not composed in accordance with the law.

QUESTIONS TO THE PARTIES

1. Was the applicant's detention from 11 to 30 March 2004 compatible with the requirements of Article 5 § 1 (c) of the Convention?

2. Did the applicant have an enforceable right to compensation for his detention, as required by Article 5 § 5 of the Convention?

3. Was the length of the criminal proceedings against the applicant in breach of the "reasonable time" requirement of Article 6 § 1 of the Convention (see, in the relevant part, *Korshunov v. Russia*, no. 38971/06, 25 October 2007)?