



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

FIRST SECTION

Application no. 60452/08
Igor Yevgenyevich SHUMILOV against Russia
lodged on 6 November 2008

STATEMENT OF FACTS

The applicant, Mr Igor Yevgenyevich Shumilov, is a Russian national who was born in 1972 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.

A. Criminal proceedings against the applicant and his detention

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.

On 22 June 2006 the applicant was charged with extortion.

The District Court further extended the applicant’s detention on 10 August, 24 November and 19 December 2006 and 28 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 13 June, 28 August and 24 October 2007.

In particular, on 24 October 2007 the Regional Court decided to extend the applicant’s detention until 28 December 2007, bringing its total duration

to eighteen months and fourteen days. The Regional Court held that, as required by Article 109 of the Code of Criminal Procedure, the investigation had been completed and the materials of the criminal case had been presented to the applicant and his counsel in due time. However, the applicant had not yet finished familiarising himself with the materials of the criminal case.

It appears that on 24 December 2007 the applicant's detention was further extended until 28 February 2008.

On 30 January 2008 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 having committed, 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.”

The applicant alleges that at that hearing the question of a preventive measure was not examined at all and no decision was taken extending his detention. He therefore considers that from that date and until 21 March 2008 he was detained without any court order. It is not clear whether the applicant or his counsel appealed against the decision of 28 February 2008.

On 14 March 2008 the Regional Court referred the case file to the prosecutor's office.

On 17 March 2008 the 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.

In his appeal against the decision of 21 March 2008 the applicant and his counsel complained that his detention after 28 February 2008 had been unlawful.

On 29 April 2008 the Supreme Court of the Russian Federation upheld the detention order of 21 March 2008.

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 held, referring to the same grounds as before, that the applicant, as well as some of his co-defendants must remain in detention. It did not set any time-limit for the applicant's detention. It appears that neither the applicant nor his counsel appealed against that decision.

The applicant's detention was further extended on 6 November 2008 and on 6 February, 5 May and 6 August 2009.

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.

B. Conditions of the applicant's detention

Between 14 June 2006 and 18 September 2009 the applicant was detained in Ivanovo remand prison no. 37/1.

He was detained in different cells. All of them were overcrowded. The applicant did not have an individual sleeping place and had to take turns with others to sleep. The electric light was on all the time. The sanitary conditions were unsatisfactory. The toilet was not separated from the rest of the room. The cells were infested with insects and were not equipped with a ventilation system. The detainees were provided with only one set of bedding per half year and could take a fifteen-minute shower once a week.

From 14 June 2006 until 20 November 2007 the applicant was detained in cell 81, which measured approximately thirty square metres, had twelve sleeping places and accommodated from twenty to twenty-five detainees.

From 20 November 2007 until 21 February 2008 the applicant was detained in cell 102, which measured twelve square metres, had six sleeping places and accommodated from nine to twelve detainees.

From 21 February 2008 until 23 February 2009 the applicant was detained in cell 90, which measured twelve square metres, had six sleeping places and accommodated nine detainees.

From 23 February 2009 until 18 September 2009 the applicant was detained in cell 83, which measured sixteen square metres, had eight sleeping places and accommodated fifteen or sixteen detainees.

On several occasions the administration of the prison put the applicant into a punishment cell, allegedly because he tried to defend his rights.

C. Proceedings for compensation for non-pecuniary damage

It follows from the information provided on the official site of the Regional Court that on 14 April 2011 the Ivanovo Region Leninskiy District Court granted the applicant's claim against the Ministry of Finance of the Russian Federation for compensation for non-pecuniary damage caused by unlawful criminal prosecution, and awarded him RUB 1,350,000.

On 25 May 2011 the Regional Court upheld that decision.

COMPLAINTS

1. The applicant complains under Article 3 that he was detained in inhuman conditions in Ivanovo remand prison no. 37/1 between June 2006 and September 2009.

2. He complains under Article 5 that his detention after 28 February 2008 was unlawful.

3. He complains under Article 5 that his pre-trial detention was not based on sufficient reasons.

He complains under Article 6 of the Convention that the criminal proceedings against him were unreasonably long.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in Ivanovo remand prison no. 37/1 ("SIZO no. 37/1") compatible with Article 3 of the Convention? The Government are requested to comment on all aspects of the conditions of detention, as outlined by the applicant, with special emphasis on the overcrowding problem. They are requested to produce documents indicating the dimensions of the cells in which the applicant was detained, and the number of inmates per cell.

2. What is the current state of criminal proceedings against the applicant on the charges of extortion and organisation of a criminal group? When was the applicant first arrested as part of these criminal proceedings?

3. May the applicant still claim to be a victim, within the meaning of Article 34 of the Convention, of a violation of Article 5 §§ 1 and 3 of the Convention, having regard to the decision of 14 April 2011 of the Ivanovo Leninskiy District Court, as upheld by the Ivanovo Regional Court on 25 May 2011? Was the decision of 14 April 2011 enforced fully and without delays?

4. If the applicant may still claim to be a victim of violation of Article 5 § 1, was the applicant's detention in conformity with the requirements of that provision? The Government are required to comment on each and every period of the applicant's detention. Did the applicant or his lawyer appealed against the decision of the Ivanovo Regional Court of 21 May 2008?

5. 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:

- court decisions extending the applicant's detention, as well as the applicant's appeals against these decisions and the decisions of the appeal court that are missing from the file;
- decision of the Supreme Court of the Russian Federation of 8 December 2010;
- judgment of the Leninskiy District Court of 14 April 2011 and decision of the Ivanovo Regional Court of 25 May 2011.