



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

FIRST SECTION

Application no. 22457/07
Nina Vasilyevna ASHNINA
against Russia
lodged on 14 May 2007

STATEMENT OF FACTS

The applicant, Ms Nina Vasilyevna Ashnina, is a Russian national, who was born in 1958 and lives in Orenburg.

A. The circumstances of the case

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

At 8.25 a.m. on 10 November 2006 the applicant came to the State Duma, the lower house of the Russian Parliament, with a banner that read “Do not force taxpayers to pay for systematic extermination of Russians by psychiatrists!” («Не заставляйте налогоплательщиков оплачивать психиатрам планомерное истребление Россиян!»). She protested against the adoption of the 2007 federal budget which allocated more than 7.5 billion Russian roubles for the development of psychiatric services.

Five minutes later the police arrested the applicant and took her by car to the Tverskoy district police station where she stayed for more than five hours. According to the report of the arresting officer Sergeant M., the applicant was arrested in connection with “a breach of the established procedure for conducting a meeting, demonstration, procession or picket under Article 20.2 of the Code of Administrative Offences”.

At the police station, Lieutenant M. compiled two reports concerning the applicant. The first report related to her administrative detention, it indicated that the applicant was arrested for an offence under Article 20.2 of the Code

of Administrative Offences. The second report on an administrative offence described the factual circumstances of the offence as follows:

“On 10 November 2006 at 8.30 a.m., in Moscow, 1 Okhotnyy ryad st. [the address of the State Duma], Ms Ashnina with a group of citizens took part in picketing without a prior notification to the executive authorities. She carried a banner with her.”

The reports were referred to the Justice of the Peace of the 369th Circuit of the Tverskoy District in Moscow. The applicant refused to sign for receipt of the court summons and did not appear in court.

On 15 November 2006 the Justice of the Peace examined the police report on the offence committed by the applicant and found her guilty on the basis of three above-mentioned police reports:

“... The court considers that the actions by Ms Ashnina constituted a breach of the procedure for holding pickets because, in breach of the legal requirements, she had not submitted an appropriate notification to the Prefecture of the Central Administrative District of Moscow, and the public events was accordingly held without a lawful basis. The court takes into account that Ms Ashnina’s presence near the object of her picket, together with a group of citizens, was a direct evidence of visual campaigning and manifestation of her opinions and views and took the form of a public meeting, or a picket in the instant case. In addition, the actions by Ms Ashnina disclose her direct intention to commit an administrative offence.”

The Justice held that the applicant committed an administrative offence under Article 20.2 of the Code and fined her 1,000 Russian roubles.

In her statement of appeal, the applicant complained that she had not been duly notified of the hearing before the Justice of the Peace and that she had been conducting an individual picket, in which case no prior notification was required (see section 7 § 1 of the Public Gatherings Act, cited below).

On 5 December 2006 the Tveskoy District Court of Moscow upheld the judgment against the applicant. The District Court held that the Justice had correctly assessed the evidence and applied the law. It noted as follows:

“The [District Court] cannot agree with Ms Ashnina’s arguments that the police officers had artificially created a group from individual participants. Ms Ashnina does not dispute the fact that, apart from her, there were other picketers near the building of the State Duma, and the Justice of the Peace correctly reached the conclusion that her presence near the object of the picket, together with a group of citizens, was a direct evidence of visual campaigning and manifestation of her opinions and views and took the form of a public meeting, or a picket in the instant case.”

B. Relevant domestic law

Section 7 § 1 of the Public Gatherings Act (Law no. 54-FZ of 19 June 2004) provides that the organiser of a public event, except in the case of an assembly or picket held by a single participant, has to send a written notification about the event to the regional executive authorities no earlier than fifteen and no later than ten days before the date of the event.

COMPLAINTS

The applicant complained under Article 10 of the Convention about a violation of her rights to peaceful assembly and expression of her views.

The applicant also complained under Article 6 of the Convention that the hearing before the Justice of the Peace had been conducted in her absence.

QUESTIONS TO THE PARTIES

As regards the applicant's conviction of an administrative offence, was there a violation of Article 10 and/or Article 11 of the Convention? In particular, what was the specific evidentiary basis for the domestic courts' finding that she was not alone but in a group of other citizens and were their conclusions based on an acceptable assessment of relevant facts?