



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

FIRST SECTION

Application no. 9994/06  
Igor Yevgenyevich PODDUBNYY and Yevgeniy Anatolyevich BABKOV  
against Russia  
lodged on 22 January 2006

**STATEMENT OF FACTS**

The applicants, Mr Igor Yevgenyevich Poddubnyy and Mr Yevgeniy Anatolyevich Babkov, are Russian nationals, who were born in 1970 and 1965 respectively and live in Moscow. They are represented before the Court by Ms K. Moskalenko, Ms A. Stavitskaya and Mr S. Kruglov, lawyers practising in Moscow.

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

On 13 June 2000 the prosecutor's office opened a criminal investigation against the applicants on suspicion of fraud and tobacco smuggling.

On 24 November 2000 the applicants were arrested. On 27 November 2000 their pre-trial detention was authorised by the prosecutor. The prosecution authorities maintained their decision to hold the applicants in custody pending investigation on 1 December 2000 and 18 May 2001.

On 8 August 2001 the First Deputy Prosecutor General of the Russian Federation extended the applicant's pre-trial detention until 13 November 2001. He referred to the gravity of the charges against them, the risk of absconding, interfering with administration of justice or continuing their criminal activities.

On 1 and 15 November 2001 the First Deputy Prosecutor General of the Russian Federation extended the applicant's pre-trial detention until 24 November 2001 and 24 February 2002 respectively. The prosecutor relied on the same grounds as before.

On 15 January 2002 the First Deputy Prosecutor General of the Russian Federation extended the applicant's pre-trial detention until 24 May 2002 reiterating the reasoning of the previous orders.

On 23 May 2002 the Moscow City Court extended the applicants' detention for another six months with a view to study the case-file. On 12 September 2002 the Supreme Court of the Russian Federation quashed the decision of 23 May 2002 on appeal and remitted the matter for fresh consideration. At a new hearing held on 11 November 2002 the City Court again extended the applicants' detention for another six months.

On 21 November 2002 the City Court noted that the applicants did not finish studying the case-file and ordered that they further remain in custody pending such study. On 5 February 2003 the Supreme Court quashed the decision of 21 November 2002 on appeal and remitted the matter for fresh consideration ordering that the applicants remain in custody pending a new hearing.

It appears that the applicants remain in custody pending investigation.<sup>1</sup>

On 12 January 2004 the City Court fixed the trial for 19 January 2004. The court ordered that the applicants remain in custody pending trial.

On 19 January 2004 the City Court found that the bill of indictment was not in conformity with applicable legislation and returned the case-file to the prosecutor's office for rectification. The applicants were to remain in custody in view of the gravity of the charges against them and the risk of absconding or influencing the witnesses.

On 20 May 2004 the City Court fixed the date for the trial and ordered that the applicants remain in custody.<sup>2</sup>

On 3 February 2005 the jury delivered a non-guilty verdict in the applicants' case. On 4 February 2005 the City Court pronounced the judgment and ordered the applicants' release.

On 22 July 2005 the Supreme Court quashed the judgment of 4 February 2005 on appeal and remitted the matter for fresh consideration.

On 29 July 2005 the City Court ordered the applicants' remand in custody pending new trial. The court reasoned as follows:

"It follows from [the judgment of the Supreme Court] that the verdict was quashed in view of the breaches of the rules of criminal procedure by both defendants which influenced the opinion of the jury. Therefore, the court considers that, if released, [the applicants] might interfere with the establishment of the truth and the administration of justice by putting pressure on witnesses.

Regard being had to the above, to the gravity of the charges and in order to ensure the compliance with the objectives of the criminal proceedings, the court grants the prosecutor's request to remand [the applicants] in custody."

On 6 September 2005 the City Court dismissed the applicants' request for release.<sup>3</sup> On 24 November 2005 the Supreme Court upheld the dismissal on appeal.

On 20 September 2005 the Supreme Court upheld the decision of 29 July 2005 on appeal.

On 16 February 2006 the City Court pronounced the judgment based on the jury's non-guilty verdict.<sup>4</sup> On 21 September 2006 the Supreme Court upheld it on appeal.

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<sup>1</sup> The applicants did not provide copies of relevant detention orders.

<sup>2</sup> The applicants did not provide a copy of the relevant decision.

<sup>3</sup> The applicants did not provide a copy of the relevant decision.

<sup>4</sup> The applicants did not provide a copy of the judgment.

## COMPLAINTS

The applicants complain under Article 5 § 3 of the Convention that their pre-trial detention was not based on sufficient reasons and that it was unreasonably long.

The applicants complain under Article 6 § 1 of the Convention that the criminal proceedings against them were unfair. In particular, they allege that their acquittal was quashed on appeal on 22 July 2005 by the court which could not be considered independent.

In the application form of 15 June 2006, the applicants complain under Article 5 § 1 of the Convention that their pre-trial detention was not lawful and under Article 6 § 1 of the Convention that the criminal proceedings against them have been unreasonably long.

### **QUESTIONS TO THE PARTIES**

1. In view of the applicants' acquittal by the Moscow City Court on 16 February 2006 as upheld on appeal by the Supreme Court of the Russian Federation on 21 September 2006, can they still claim to be victims of a violation of Articles 5 § 3 and 6 § 1 of the Convention, within the meaning of Article 34?
2. Was it incumbent on the applicants to make recourse to civil proceedings in order to obtain redress in respect of the alleged violations of Articles 5 § 3 and 6 § 1 of the Convention (see, *Trepashkin v. Russia*, no. 36898/03, §§ 69-74, 19 July 2007)? If so, did the applicants lodge a relevant civil claim before the national courts?
3. Assuming the applicants can still claim to be the victims of a violation of Article 5 § 3 of the Convention, was the length of their pre-trial detention in breach of the "reasonable time" requirement set forth in that provision?
4. Assuming the applicants can still claim to be the victims of a violation of Article 6 § 1 of the Convention, was the length of the criminal proceedings in the present case in breach of the "reasonable time" requirement set forth in that provision?
5. The parties are requested to provide the relevant documents concerning the first applicant's conviction by the Tverskoy District Court of Moscow on 30 July 2003.