



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

FIRST SECTION

Application no. 45125/06
Yevgeniy Ivanovich ROZHKOV
against Russia
lodged on 9 October 2006

STATEMENT OF FACTS

The applicant, Mr Yevgeniy Ivanovich Rozhkov, is a Russian national, who was born in 1975 and is serving a prison sentence in Abakan, Khakassiya Republic.

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

On 7 September 2003 the applicant was arrested on suspicion of involvement in illegal drug possession, manufacturing and attempted distribution.

On 9 September 2003 the applicant was released on his own recognisance not to leave his place of residence. While at large, the applicant absconded and his name was put on the wanted persons' list. The criminal proceedings were stayed.

On 24 January 2004 the applicant was re-arrested and the Sayanogorsk Town Court authorised his remand in custody pending investigation. In particular, the court noted as follows:

“... the court takes into consideration that [the applicant] is charged with a particularly grievous offence. In the past, [the applicant] repeatedly committed unlawful acts and was subjected to criminal prosecution ... In the course of the preliminary investigation he violated his own recognisance not to leave the place of residence and absconded. Before the court [the applicant] did not deny this fact and justified it by alleging that he had been subjected to pressure by [policemen]. Accordingly, [the court] considers that there are grounds to believe that, if at large, [the applicant] might continue his criminal activities, abscond and interfere with due and objective investigation of the case.”

On 11 March 2004 the panel of three professional judges decided to return the case-file to the prosecutor for his failure to prepare the bill of indictment in full compliance with the rules of criminal procedure and in

order to join the case against the applicant and his co-defendants N. and V. Judge K. was a member of the panel.

On 25 August 2004 the Town Court extended the applicant's pre-trial detention until 27 November 2004. The court noted as follows:

“The applicant is charged with a particularly grievous offence. In the past, he repeatedly committed unlawful acts and was subjected to criminal prosecution ... His character references provided from the place of residence are negative. Accordingly, the court considers that, if at large, [the applicant] might continue his criminal activities, abscond or interfere with establishment of the truth in the case. Furthermore, [the applicant] absconded before and, as a result, was remanded in custody. He might interfere with the administration of justice by putting pressure on witnesses and other parties to the proceedings.”

On 4 October 2004 the Town Court fixed the first trial hearing for 15 October 2004 noting that the applicant should remain in custody.

It appears that on 15 October 2004 the proceedings were stayed in view of the applicant's medical condition. He was diagnosed with tuberculosis and underwent treatment in a prison hospital.

On 22 November 2004, 25 February and 23 May 2005 the Town Court extended the applicant's detention until 27 February, 27 May and 27 August 2005 respectively. The court reiterated verbatim its reasoning of 25 August 2004.

On 20 July 2005 the Supreme Court of the Khakassiya Republic upheld the decision of 23 May 2005 on appeal.

On 28 June 2005 the Town Court resumed the proceedings and fixed the hearing for 4 July 2005. As regards the detention of the three defendants, including the applicant, the court noted as follows:

“[The three defendants] are charged with a particularly grievous offence entailing a custodial sentence. They were remanded in custody in view of the gravity of the charges against them and their character. Their release would significantly interfere with comprehensive, complete and objective establishment of the circumstances of the case.

... the court considers that, if at large, the defendants might again commit unlawful acts or abscond or interfere with establishment of the truth in the case. ... they might put pressure on witnesses or other parties to the proceedings.

Having regard to the above, the court considers it necessary that [the defendants] remain in custody.”

On 23 August 2005 the Town Court extended the applicant's pre-trial detention until 27 October 2005 on the same grounds as before.

On 8 September 2005 the Town Court found the applicant guilty as charged and sentenced him to seven and a half years' imprisonment.

On 14 December 2005 the Supreme Court quashed the verdict of 8 September 2005 on appeal and remitted the matter for fresh consideration to the trial court. The court ordered that the defendants, including the applicant, remain in custody.

On 26 January 2006 the Town Court scheduled the preliminary hearing of the matter for 2 February 2006. The court noted that the defendants, including the applicant, should remain in custody.

On 2 February 2006 the Town Court fixed the trial for 9 February 2006. The court ordered that the defendants, including the applicant, remain in custody.

On 23 March 2006 the Town Court extended the applicant's pre-trial detention until 28 June 2006. The court referred to the same reasons as before. On 7 June 2006 the Supreme Court upheld the said decision on appeal.

On 27 June 2006 the Town Court extended the applicant's pre-trial detention until 28 September 2006. The court's reasoning remained the same.

On 14 August 2006 the applicant unsuccessfully asked the court to replace the prosecutor K., whose wife took part in the hearing of the case on 11 March 2004, as part of the panel of three judges.

On the same date the Town Court found the applicant guilty as charged and sentenced him to eight and a half years' imprisonment.

On 22 November 2006 the Supreme Court upheld the applicant's conviction on appeal. His subsequent requests for supervisory review of the matter were to no avail.

COMPLAINTS

The applicant complains under Article 5 § 1 of the Convention that his detention after 4 February 2006 was unlawful.

In the application form of 10 May 2007 the applicant alleges violations of Articles 3, 5 § 3, 6-8 of the Convention and Article 2 of Protocol No. 7. In particular he complains that he was beaten up by police officers on several occasions in September 2003; that his pre-trial detention was unreasonably long; that he was convicted on contradictory and inadmissible evidence and that the criminal proceedings against him were unfair.

QUESTION TO THE PARTIES

Was the length of the applicant's pre-trial detention in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention?