



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

FIRST SECTION

Application no. 9362/08
Vladimir Vasilyevich SMIRNOV
against Russia
lodged on 21 January 2008

STATEMENT OF FACTS

THE FACTS

The applicant, Mr Vladimir Vasilyevich Smirnov, is a Russian national, who was born in 1972 and lives in Tambov.

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

A. Circumstances of the applicant's arrest and pre-trial detention

On 12 May 2005 the applicant was detained on suspicion of having committed an administrative offence, but on the same day he was charged with having committed extortion and having inflicted grave injuries.

On 29 June 2005 the charges were lifted and the applicant's prosecution was terminated.

On 3 July 2006 the applicant was detained again in relation to the same case, and on 5 July 2006 his detention on remand was authorised by the court. The reasons for the detention were the gravity of charges, the fact that the applicant was not a resident of the town of Michurinsk and the likelihood of fleeing and of obstructing the course of justice. The applicant appealed asking to change the measure of restraint to a recognisance not to leave. On 18 July 2006 the Tambov Regional Court upheld the detention order without further elaborating on the reasons.

The detention was extended on 31 August 2006 (upheld on 5 October 2006).

On 3 October 2006 the case file was transferred to Michurinskiy Town Court of the Tambov Region, and a hearing of the criminal case was fixed

for 11 October 2006. The court decided that the measure of restraint – the detention on remand – was to remain unchanged.

On 29 March 2007 the same court extended the applicant's detention until 2 July 2007. It again reiterated the same reasons given in the earlier decisions, without elaborating on them. On 17 April 2007 the Tambov Regional Court upheld this decision, without entering into further discussion of the reasons for the applicant's continued detention.

The next decision concerning the applicant's pre-trial detention was taken on 29 June 2007 by the same town court. It stated that the applicant was accused of two grave criminal offences and that it had grounds to suspect that the applicant would abscond or obstruct the investigation, if released, without indicating what these grounds were. This decision was upheld on appeal on 26 July 2007, by the Tambov Regional Court who noted the gravity of charges and concluded that there had been no reason to change the measure of restraint.

On 20 August 2007 the first instance court found the applicant guilty as charged.

On 30 October 2007 the court of appeal quashed the first instance judgment and remitted the case for fresh examination having ordered the applicant to remain in detention. No reasons were given for the continued detention.

On 25 December 2007 the Michurinskiy Town Court extended the applicant's detention until 2 April 2008. It reiterated the reasons given in the earlier decisions, without elaborating on them. On 31 January 2008 the Tambov Regional Court upheld this decision, without examining the reasons for the applicant's continued detention.

On 18 March 2008 the Michurinskiy Town Court extended the applicant's detention until 2 July 2008, using the same succinct formula for the reasons.

On 2 June 2008 the Michurinskiy Town Court found the applicant guilty as charged and convicted him to an 11-years' prison sentence. On 29 July 2008 the Tambov Regional Court upheld the conviction.

B. Conditions of detention

In the period from 3 July 2006 and until his conviction in October 2008 the applicant was detained in the temporary detention ward of Michurinsk (*ИВС г. Мичуринска* – the IVS). In his additional application form submitted in May 2008 he indicated 24 periods from one day to two weeks long which in total amounted to 200 days in the IVS, in different cells. It appears that the reason for the applicant to have been detained in IVS rather than in SIZO was his previous service in the Interior, which required his detention to be separate from other inmates. Between these periods he was transferred to the detention facility SIZO 68/4 in Kirsanov (*СИЗО 68/4, г. Кирсанов*), apparently for questioning and other investigative measures.

In the IVS, there were ten cells, all at the cellar level, measuring about 12 sq. metres each, designed for four or five detainees, but in practice accommodating up to 7 inmates. The applicant indicated that in 2008 the situation improved and the number of inmates did not exceed four. The cell was equipped with a wooden bench and a side table. Beddings and bed linen

were provided only occasionally and were unusable. There were no sanitary facilities or tap water in the cell, but in the corner of the cell there was a waste bucket to serve as toilet. The cells had no windows, and the light was provided by a 40-watt bulb which was lit day and night, so that the room was always in twilight. There was no ventilation, and the room was constantly filled with cigarette smoke; it was also infested by pest and rodents. The detainees were not let out for a walk, possibly because there was no courtyard, and there had been no TV, radio or newspapers, and it was impossible to tell the time of day or night. The food was served cold, and meals had to be taken at a side table beside the waste bucket.

The applicant provided four statements from fellow inmates who described the conditions of detention in the IVS, which are consistent with the applicant's account.

On 14 December 2009 the acting Chief of the Public Order Department of the Interior of the Russian Federation replied to the applicant's complaint concerning the appalling conditions of detention in the IVS. In the letter, he admitted that the cells were located underground, lacked adequate light, sewage, water supply and sanitary facilities and stated that these were constraints imposed by the old age of the building, constructed in 1873, and that it had been under renovation after the applicant's transfer from it.

COMPLAINTS

The applicant complains under Article 3 of the Convention about the poor conditions of detention in the IVS.

He also complains under Article 5 § 1 of the Convention that his initial arrest and detention were unlawful.

He also complains under Article 5 § 3 of the Convention that his pre-trial detention has been excessively long and that the courts did not give sufficient reasons for authorising its extensions.

Finally, he alleges a violation of Articles 6, 8, 13 and 14 in relation to the criminal proceedings against him, claiming that they were unfair and that he could not obtain relief, although he pursued various avenues of complaints.

QUESTIONS TO THE PARTIES

1. Were the conditions of the applicant's detention in temporary detention ward (the IVS of Michurinsk) compatible with Article 3 of the Convention? The Government are requested to indicate the exact dates when the applicant was detained in the IVS, and in which cells. In respect of each cell in the Government are requested to indicate:

- (a) The cell number and the dates of the applicant's stay;
- (b) The floor surface of the cell (in square metres);
- (c) The number of bunk beds and/or sleeping places that were available in the cell;

(d) The exact number of detainees held in the cell together with the applicant (supported by copies of original documents, such as cell registers (*покамерные карточки*) or statistical data);

(e) Whether the cell was equipped with a functioning mandatory ventilation;

(f) What kind of lighting was available in the cell; if the lighting was natural, indicate the dimensions of the window(s) and the number and thickness of metal bars; if the lighting was artificial, indicate the number of bulbs and their power;

(g) The sanitary facilities, such as toilet, wash basin, shower, and their placement inside the cell (indicating the distance between the toilet and the dining table and between the toilet and the nearest sleeping place; a partition separating the toilet pan from the rest of the cell; its height and the material it was made of), or other arrangements if outside the cell.

(h) The frequency of outdoor exercise, the surface of the exercise yard (in square metres) and the type of the roof above the yard (metal bars, solid roof, netting, etc.)

2. Was the length of the applicant's pre-trial detention from 3 July 2006 to 2 June 2008 in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention? Were the grounds advanced by the domestic courts for the applicant's continued detention "relevant and sufficient"? The Government are requested to produce copies of all first instance court decisions ordering or extending the applicant's detention on remand and copies of all second instance court decisions taken on the applicant's appeals against the extension of his detention, except copies submitted by the applicant and attached herewith.