



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

FIRST SECTION

Application no. 51445/09  
Pavel Mikhaylovich ZHEREBIN against Russia  
and 9 other applications  
(see list appended)

The facts and complaints in these cases have been summarised in the Court's decision, which is available in HUDOC.

**QUESTIONS**

1. In the proceedings in which detention was imposed or extended (remand proceedings), did the courts satisfy themselves that there existed a “reasonable suspicion” against the applicants, as required by Article 5 § 1 (c) of the Convention? In particular, in the remand proceedings did the courts assess evidence showing the existence of such “reasonable suspicion” (see *Khudoyorov v. Russia*, no. 6847/02, § 180, 8 November 2005, and *Shcheglyuk v. Russia*, no. 7649/02, § 43, 14 December 2006)?

2. Having regard to the reasons expressly relied on by the domestic courts in the detention orders (see, for example, *Bykov v. Russia* [GC], no. 4378/02, § 66, 10 March 2009, and *Savenkova v. Russia*, no. 30930/02, §§ 85 and 87, 4 March 2010), was the applicants' detention on remand justified by “relevant and sufficient reasons”, as required by Article 5 § 3 of the Convention in conjunction with Article 5 § 1 (c) thereof? In particular:

- Did the courts respect the “presumption in favour of release” (in particular, insofar as the distribution of the burden of proof was concerned (see *Vlasov v. Russia*, no. 78146/01, § 108, 12 June 2008, and *Moiseyev v. Russia*, no. 62936/00, § 154, 9 October 2008)?

- Did the courts assess specific factual circumstances demonstrating the existence of the risks allegedly posed by the applicants (see, for example, *Panchenko v. Russia*, no. 45100/98, § 107, 8 February 2005; *Dolgova v. Russia*, no. 11886/05, § 49, 2 March 2006; *Mishketkul and Others v. Russia*, no. 36911/02, §§ 57-59, 24 May 2007; *Gusev v. Russia*, no. 67542/01, §§ 80-82, 15 May 2008; *Sizov v. Russia*, no. 33123/08,

§ 53, 15 March 2011; and *Romanova v. Russia*, no. 23215/02, §§ 127-133, 11 October 2011)?

- Did the courts examine relevant evidence in order to establish the existence of those facts (see, for example, *Aleksandr Makarov v. Russia*, no. 15217/07, §§ 125–127, 12 March 2009, and *Chumakov v. Russia*, no. 41794/04, § 162, 24 April 2012)?

- Did the courts consider the possibility of applying less intrusive preventive measures to the applicants, such as bail, house arrest, electronic surveillance, personal sureties and so on (see, for example, *Pshevecherskiy v. Russia*, no. 28957/02, §§ 69-71, 24 May 2007; *Tsarkov v. Russia*, no. 16854/03, § 70, 16 July 2009; *Miminoshvili v. Russia*, no. 20197/03, § 92, 28 June 2011; and *Fedorenko v. Russia*, no. 39602/05, § 71, 20 September 2011; see also the ruling of 22 October 2009 by the Supreme Court of the Russian Federation)?

- Did the courts have due regard to the changing situation of the defendants and the evolving needs of the proper conduct of the proceedings when extending the detention (see, for example, *Aleksanyan v. Russia*, no. 46468/06, § 191, 22 December 2008; *Sizov v. Russia*, cited above; and *Sokurenko v. Russia*, no. 33619/04, § 87, 10 January 2012)?

3. Did the authorities display “special diligence” in the conduct of the proceedings against the applicants, as required by Article 5 § 3 of the Convention? In particular, did the courts assess specific procedural actions which needed to be taken during the investigation and the trial, and the reasons why those actions had not been taken earlier or could not have been taken more promptly (see *Valeriy Samoylov v. Russia*, no. 57541/09, § 123, 24 January 2012, and *Syngayevskiy v. Russia*, no. 17628/03, §§ 82-86, 27 March 2012)?

4. Do the facts of the present applications which occurred between 2006 and 2011 in different Russian regions, if taken together and in conjunction with the Court’s previous judgments where the Court found violations by the Russian authorities of Article 5 §§ 1 (c) and 3 of the Convention, disclose the existence of a “systemic” or “structural” problem or other similar dysfunction which gives or may give rise to similar applications (cf. Rule 61 § 1 of the Rules of Court) relating to the justification for and the length of detention pending investigation and trial, and which requires the adoption of a pilot judgment? Does this situation amount to “a practice incompatible with the Convention” (see *Bottazzi v. Italy* [GC], no. 34884/97, § 22, ECHR 1999-V)? In their replies to the questions above, the parties are invited to make their comments in the light of the methodology developed in the Courts case-law, in particular the judgments in the cases of *Broniowski v. Poland* (merits) [GC] no. 31443/96, ECHR 2004-..., §§ 189 et seq.; *Hutten-Czapska v. Poland* [GC] no. 35014/97, ECHR 2006-..., §§ 231 et seq.; *Burdov (no. 2) v. Russia* no. 33509/04, ECHR 2009-..., §§ 129 et seq., and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, 10 January 2012, §§ 184 et seq.).

5. If the problem of unjustified or excessively long detention on remand is “structural”, what positive measures must be taken, in the Government’s opinion, in order to improve the situation?

6. Was there an effective mechanism, sufficiently established in law and practice, that would enable the applicants to obtain adequate compensation in connection with their complaints under Article 5 §§1 (c) and 3, as required by Article 5 § 5 of the Convention (see *Boris Popov v. Russia*, no. 23284/04, §§ 81 et seq., 28 October 2010)? Could that compensation be obtained irrespective of the outcome of the criminal proceedings against the applicants?

7. The parties are invited to check the accuracy of the information contained in the “Facts” part. Where a detention order is missing, or where there is no information about the decision of the second-instance court (if any) the parties are invited to produce relevant documents and information. Where the applicant’s detention was extended after the date of the applicant’s last letter to the Court, the parties are invited to indicate the overall length of the detention and the reasons for the extension in the same format as in the attached tables. The Government are invited to produce recent official statistics and researches, if any, on application of preventive measures by the Russian courts.

## **APPENDIX**

### **List of applications**

1. 51445/09 Zherebin v. Russia
2. 24746/06 Turk v. Russia
3. 24702/08 Andriyanov v. Russia
4. 14565/09 Khalosha v. Russia
5. 31349/09 Meshcheryakov v. Russia
6. 53902/09 Cheremnykh v. Russia
7. 53346/10 Chernova v. Russia
8. 61068/10 Polyakov v. Russia
9. 21420/11 Shelesnov v. Russia
10. 30975/11 Yurin v. Russia