



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

FIRST SECTION

Application no. 29899/09
Dmitriy Vladimirovich ARSHINOV
against Russia
lodged on 4 May 2009

STATEMENT OF FACTS

The applicant, Mr Dmitriy Vladimirovich Arshinov, is a Russian national, who was born in 1976 and lives in Balakhna, the Nizhniy Novgorod Region.

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

A. First round of criminal proceedings and the decision of 12 December 2008

In 2005 the applicant, a former police officer, was prosecuted for abuse of power.

On 31 March 2008 the Balakhna Town Court of the Nizhniy Novgorod Region (the Town Court) found the applicant guilty and sentenced him to a term of imprisonment. The applicant was arrested in the courtroom and detained.

The applicant appealed. At the same time he unsuccessfully tried to prosecute the investigating officers in charge of his case for alleged fabrication of certain documents.

On 12 December 2008 the Nizhniy Novgorod Regional Court (the Regional Court) quashed the applicant's sentence on account of multiple procedural violations. It remitted the case to the Town Court for a fresh examination, noting that:

“Taking into account the nature and the degree of the hazard that the crime poses to the society..., considering the information about his [the applicant's] personality, and for the reasons of execution of the sentence the court considers that the measure of restraint should be changed from the obligation not to leave the town to remand in custody, extending the detention for 2 months.”

B. Second round of criminal proceedings

On 19 January 2009 the Town Court held a hearing to resolve some procedural issues of the upcoming trial in the second round of criminal proceedings against the applicant. It held, in particular, that:

“The measure of restraint in respect of Mr Arshinov... should remain unchanged.”

The applicant appealed. It appears that the trial commenced soon afterwards.

1. The first extension order

On 2 February 2009 the Town Court extended the applicant’s detention until 12 May 2009, stating as follows:

“Taking into account the nature and degree of the hazard that the crime poses to the society..., the information about his [the applicant’s] personality, the court finds it necessary to extend the applicant’s detention for 3 months.”

It appears that the applicant’s appeals against the decision of 19 January and the extension order of 2 February were examined by the Regional Court in the same hearing on 17 April 2009. It noted that:

“Mr Arshinov is accused of a grave crime.

... The decision to keep the applicant in custody was made to ensure a full and objective trial on merits of the case.”

2. The second extension order

On 5 May 2009 the Town Court further extended the applicant’s detention until 12 August 2009. It referred, in particular, to the following:

“... A forensic psychiatric examination was ordered in respect of Mr L. (a co-accused). It is scheduled for 14 May 2009.

Moreover, it is necessary to examine the victims Mr A., Mr G., Mr S., Mr V., Mr K., witnesses, the accused and [the other] evidence.

The grounds for remanding Mr Arshinov in custody did not change and still pertain.

Taking into account the nature and degree of the hazard that the crime poses to the society..., the information about his [the applicant’s] personality and the possibility that if at liberty, Mr Arshinov could intimidate the victims and witnesses or otherwise obstruct justice, the court considers it necessary to extend the custodial measure ...”

On 11 September 2009 the Regional Court rejected the applicant’s appeal against the above order. In a summary fashion, it found that the order had been lawful and reasoned.

3. The third extension order

On 10 August 2009 the Town Court, repeating the same reasons as in its previous decision, extended the applicant’s detention until 12 November 2009.

On 4 December 2009 the Regional Court upheld the order on appeal.

4. The judgment of 20 October 2009

On 20 October 2009 the Town Court examined the applicant's criminal case and found him guilty as charged. The applicant received a sentence of imprisonment of three years and three months.

It appears that the applicant missed the time-limit for an appeal and on 2 November 2009 the sentence became final. His further attempts to reinstate it were unsuccessful.

COMPLAINTS

1. Under Article 5 § 3 of the Convention the applicant complains that his pre-trial detention was unreasonably long and lacked relevant and sufficient grounds.

2. Under Article 5 § 4 of the Convention the applicant claims that judicial review of the orders extending the applicant's detention of 19 January, 2 February, 5 May and of 10 August 2009 fell short of the requirement of "speediness" of that provision.

3. With reference to Article 6 § 1 of the Convention, the applicant alleges that the criminal proceedings in his case were unreasonably long.

4. Under Article 6 of the Convention the applicant complains of various procedural irregularities during the second trial. Furthermore, he complains about the courts' refusal to reinstate the time-limit to appeal against the second sentence. Lastly, the applicant claims that the refusal to prosecute investigators for the alleged fabrication of his criminal case file violated his Convention rights.

QUESTIONS TO THE PARTIES

1. Was the length of the pre-trial detention of the applicant in the second round of criminal proceedings against him in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention?

2. Did the domestic courts' decisions extending his detention give "relevant and sufficient" reasons?

3. Did the judicial reviews of the orders extending the applicant's detention of 19 January, 2 February, 5 May and 10 August 2009 satisfy the requirement of "speediness" set out in Article 5 § 4 of the Convention?

4. Is the overall length of the criminal proceedings of four years and a half compatible with the requirements of Article 6 § 1 of the Convention?