



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

FIFTH SECTION

Application no. 22965/06  
Sergey Vladimirovich ZHULIN  
against Russia  
lodged on 14 March 2006

**STATEMENT OF FACTS**

The applicant, Mr Sergey Vladimirovich Zhulin, is a Russian national, who was born in 1971 and lives in Nizhniy Novgorod. He is represented before the Court by Ms E.E. Nadelman, a lawyer practising in Nizhniy Novgorod.

**A. The circumstances of the case**

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

The applicant was arrested on 5 June 2005 at 3 am. According to the protocol of detention that was drawn the same day at 6 pm. the applicant was arrested only at that hour.

According to the applicant, from the moment of his arrest at night until noon that day a police officer beat him aiming to force him to confess. In order to escape the beating the applicant broke the window glass and was taken to the hospital with numerous wounds.

On 6 June 2005 the applicant was charged with preparation of a robbery and attack.

On 7 June 2005 at 3.40 pm. the Lukoyanov District Court ordered the applicant's pre-trial detention until 5 August 2005. The applicant was heard and his lawyer was present.

The applicant missed the time-limit for appealing against the decision of 7 June. Only on 6 July 2005, when he learned about the possibility to reinstate the date, he lodged a complaint together with the request to reinstate the term. The complaint was, however, dismissed on 3 August 2005.

On 25 July 2005 the applicant was formally indicted and on 27 July 2005 the case was sent to the District Court for trial.

On 8 August 2005 the District Court held that there were no grounds to lift the preventive measure and decided that there would be no change regarding the applicant's pre-trial detention. The applicant was not heard.

He appealed on the same day but the District Court sent the appeal to the Nizhniy Novgorod Regional Court only on 8 September 2005, that is, one month later. In his appeal he complained that he was being detained illegally as the detention order had expired on 5 August 2005 and, therefore, it had been impossible to extend it on 8 August 2005 when it had no longer existed.

On 23 September 2005 the Regional Court, after hearing the applicant, upheld the decision considering it to be in full compliance with the law.

On 8 December 2005 the District Court sent the case back to the prosecutor. The case returned to the court on 11 April 2006.

On 19 December 2005 the applicant lodged a complaint in supervisory proceedings with the Presidium of the Regional Court. His representative was informed by phone that the appeal was dismissed, but he did not receive the text of the decision.

On 25 January 2006 the District Court extended the pre-trial detention of the applicant until 25 April 2006 without holding a hearing. The applicant appealed on 30 January 2006 but his appeal was dismissed on 31 May 2006.

On 1 March 2006 the Lukoyanov District Prosecutor dismissed the applicant's request for release on bail.

On 17 April 2006 the District Court, in a hearing attended by the applicant and his lawyer set a date for the trial to 27 April 2006 and decided to maintain the decision on the applicant's pre-trial detention without change. An appeal of the applicant was dismissed on 31 May 2006.

## **B. Relevant domestic law and practice**

The relevant domestic law and practice are set out in the Court's judgments *Lebedev v. Russia*, no. 4493/04, §§ 32-36, 25 October 2007 and *Koroleva v. Russia*, no. 1600/09, §§ 41-61, 13 November 2012.

## **COMPLAINTS**

1. Relying on Article 6 of the Convention, the applicant complains that the criminal proceedings against him lasted too long.

2. Further, relying on Article 5 § 4 of the Convention he complains that the proceedings on his appeals against his pre-trial detention lasted too long.

3. Under Articles 5 § 4 and 13 of the Convention the applicant also complains that his detention was not lawful as the decision of 7 June 2005 was issued more than 48 hours after he was arrested and from 5 August 2005 to 8 August 2005 he was detained without any court order.

4. Lastly, under the same provisions of the Convention, the applicant complains that the decision of 23 September 2005 was not sufficiently reasoned and that he was not heard by the District Court before it issued its decisions of 8 August 2005 and 25 January 2006 and he could not make any submissions before the latter decision.

### **QUESTIONS TO THE PARTIES**

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention? In particular, was the deprivation of liberty during his initial detention, when according to the applicant he was brought before a judge more than 48 hours after his apprehension, lawful? Was the deprivation of liberty during the period from 5 August to 8 August 2005 lawful?

2. Was the procedure by which the Lukoyanov District Court extended the pre-trial detention of the applicant on 8 August 2005 and 25 January 2006 in conformity with Article 5 § 4 of the Convention?

3. Did the reasoning of the decisions of the District Court of 8 August 2005 and the Regional Court of September 2005 comply with the requirements of Article 5 § 4 of the Convention?

3. Did the length of the proceedings in the present case, by which the applicant sought to challenge the lawfulness of his pre-trial detention with his appeals of 8 August 2005 and 30 January 2006, comply with the “speed” requirement of Article 5 § 4 of the Convention?