



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

FIRST SECTION

Application no. 48243/11
Aleksandr Nikolayevich SHEVCHENKO
against Russia
lodged on 22 June 2011

STATEMENT OF FACTS

The applicant, Mr Aleksandr Nikolayevich Shevchenko, is a Russian national, who was born in 1979 and lived before his arrest in Volgograd region. He is currently serving an imprisonment sentence in Sverdlovsk region.

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

On 1 October 2010 the applicant was arrested on suspicion of drug offence.

On 2 October 2010 the applicant was charged with two episodes of attempted drug trafficking allegedly committed on 7 and 8 September 2010.

On 3 October 2010 Kirovskiy District Court, Astrakhan, (“the District Court”) ordered to place the applicant in detention until 1 December 2010. The District Court held, in particular, that the applicant was charged with a particularly serious offence, that there was a reasonable suspicion that he had committed the impugned criminal offences, that he had no permanent registration in the Astrakhan region and was not employed, did not have any dependent persons. Taking into account the above elements, the District Court considered that the applicant might abscond and therefore interfere with the proceedings. The District Court also held, referring to the charges against the applicant and his personality, that it was impossible to choose another measure of restraint in respect of the applicant.

On 8 October 2010 another criminal proceedings were initiated against the applicant on suspicion of drug offences allegedly committed between September and 1 October 2010.

On 23 November 2010 the District Court extended the applicant’s detention until 20 January 2011. The applicant did not provide a copy of that detention order.

On 14 January 2011 the District Court extended the applicant’s detention until 20 March 2011. The District Court held that since the applicant was charged with a particularly serious offence there was a risk that he might abscond. In addition, the District court held that the criminal case was

particularly complex and required carrying out an important number of investigative activities. Moreover, the grounds on which the applicant had been initially placed in detention had not changed.

On 17 January 2011 the applicant appealed against the detention order of 14 January 2011 to the Astrakhan Regional Court (“the Regional Court”).

On 13 March 2011 the charges of 2 October 2010 of two episodes of drug trafficking were abandoned.

On 15 March 2011 the District Court extended the applicant’s detention until 20 May 2011 on the same grounds as before.

On 16 March 2011 the applicant was charged with unlawful purchase and storage of drugs in particularly large volumes.

On 18 March 2011 the Regional Court examined and dismissed the applicant’s appeal against the detention order of 14 January 2011.

On 23 March 2011 the Regional Court upheld the detention order of 15 March 2011.

On 20 May 2011 the detention ordered by the decision of 15 March 2011 expired. It appears that on an unspecified date in May 2011 the applicant’s detention was extended until 16 June 2011.

On 16 June 2011 the District Court further extended the applicant’s detention until 16 September 2011.

On 25 August 2011 the criminal case against the applicant and his co-defendants was referred to the District Court for trial.

On 5 September 2011 the District Court set the preliminary hearing of the case on 12 September 2011. By a decision adopted on the same date the District Court extended the applicant’s and his co-defendants’ detention until 29 February 2012 referring to the gravity of the charges against them.

On 8 September 2011 the applicant appealed against the detention order of 5 September 2011.

On 20 October 2011 the Regional Court upheld the detention order of 5 September 2011.

On 14 February 2012 Sovetskiy District Court, Astrakhan, extended the applicant’s and his con-defendant’s detention until 29 May 2012 referring to the same grounds as in the previous detention orders.

On 18 February 2012 the applicant appealed against the detention order of 14 February 2012. On 21 February 2012 the applicant’s appeal was received by the Regional Court.

On 2 April 2012 Sovetskiy District Court found the applicant guilty of purchase and storage of drugs and sentenced him to three years’ imprisonment.

On 12 April 2012 the Regional Court upheld the detention order of 14 February 2012.

On 21 June 2012 the Regional Court upheld the applicant’s conviction.

COMPLAINTS

The applicant complains under Article 5 of the Convention that his appeals against the detention orders of 14 January and 5 September 2011 and of 14 February 2012 were not examined speedily and that his pre-trial detention was not based on relevant and sufficient reasons.

QUESTIONS TO THE PARTIES

1. 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 applicant's 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?

2. Did the authorities display "special diligence" in the conduct of the proceedings against the applicant, 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 in a more speedy fashion (see *Valeriy Samoylov v. Russia*, no. 57541/09, § 123, 24 January 2012 and *Syngayevskiy v. Russia*, no. 17628/03, §§ 82 - 86, 27 March 2012)?

3. Did the applicant have at his disposal an effective procedure by which he could challenge the lawfulness of his detention, as required by Article 5 § 4 of the Convention? Did the length of the proceedings in the present case, by which the applicant sought to challenge the lawfulness of detention orders of 14 January and 5 September 2011 and of 14 February 2012, comply with the "speed" requirement of Article 5 § 4 of the Convention?

The Government are requested to provide a list of all detention orders issued in the applicant's respect with indication of the dates on which those decisions were issued, the periods of detention which they covered and the dates of relevant appeal decisions (if any). The Government are also requested to provide copies of missing detention orders and decisions of the appeal court.