



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

FIRST SECTION

Application no. 29489/07
Vladimir Igorevich GAVRILOV
against Russia
lodged on 14 June 2007

STATEMENT OF FACTS

The applicant, Mr Vladimir Igorevich Gavrilo, is a Russian national, who was born in 1959 and lives in Bataysk, Rostov region. He is represented before the Court by Mr V. I. Solomichev, a lawyer practising in Rostov-On-Don.

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

On 9 February 2007 the applicant was arrested on suspicion of drug offences. On 16 February 2007 he was charged with attempted drug trafficking.

On 10 February 2007 Bataysk Town Court, Rostov region, (“the Town Court”) ordered to place the applicant in detention.

On 21 February 2007 the Rostov Regional Court (“the Regional Court”) quashed the detention order of 10 February 2007 and remitted the matter to the Town Court for new examination. The Regional Court ordered that the applicant be released immediately. According to the applicant, that decision was pronounced at noon on the same date.

Still on the same date the President of the Regional Court forwarded a letter to the head of the temporary detention facility in which the applicant was held. The letter stated as follows:

“Following the decision of the Rostov Regional Court of 21 February 2007 you are requested to immediately release Mr Gavrilo Vladimir Igorevich ...”

On 22 February 2007 the applicant’s counsel by telephone informed the Deputy President of the Regional Court that despite the decision of 21 February 2007 the applicant had not been released.

On 26 February 2007 the investigator with the prosecutor’s office of Bataysk issued a decision changing the measure of restraint applied to the applicant. The decision stated as follows:

“At 5 pm on 26 February 2007 the prosecutor’s office of Bataysk received the appeal decision of the Rostov Regional Court of 21 February 2007 to quash the Town Court’s decision of 10 February 2007 in respect of Mr Gavrilov Vladimir Igorevich and to remit the matter to the same court for new examination.

Therefore, Mr Gavrilov should be released from IVS OVD of Bataysk [temporary detention facility] in which he is being held.

Taking into account that Mr Gavrilov have committed a particularly serious offence and, therefore, he might abscond, a written undertaking not to leave the place of residence should be imposed on him ...”

On the same date the applicant signed a written undertaking.

At 6 pm on the same day the applicant was released.

On 27 February 2007 the applicant’s counsel complained to the Prosecutor of the Rostov region and to the President of the Regional Court that despite the Regional Court’s decision of 21 February 2007 the applicant had been released only on 26 February 2007.

On 1 March 2007 the head of the temporary detention facility replied to the applicant’s counsel’s request that the detention facility had received the Regional Court’s letter with the enclosed decision of 21 February 2007 on 26 February 2007.

On 29 March 2007 the Regional Court replied to the applicant counsel’s complaint that its decision of 21 February 2007 had been sent for execution to the temporary detention facility at 2 pm on the same day.

On 20 June 2007 the Town Court granted the investigator’s request to place the applicant in detention.

On 27 June 2007 the Regional Court upheld that detention order.

On 16 July 2007 the prosecuting authorities forwarded the criminal case against the applicant to the Town Court for trial.

On 31 July 2007 the Town Court held a preliminary hearing and held that the applicant had to stay in detention pending examination of his case.

On 6 November 2007 the Town Court found the applicant guilty of two episodes of attempted drug trafficking and sentenced him to seven years’ imprisonment.

On 15 January 2008 the Regional Court examined the case on appeal. The Regional Court re-qualified the applicant’s actions into a single episode of attempted drug trafficking and reduced his sentence to six years.

COMPLAINT

The applicant complains under Article 6 and Article 2 of Protocol No. 7 to the Convention that his detention between 21 and 26 February 2007 was unlawful.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty between 21 and 26 February 2007? If so, did the applicant's detention during that period amount to a deprivation of liberty within the meaning of Article 5 § 1 of the Convention?

2. Was that detention in conformity with the requirements of Article 5 § 1 of the Convention? Was it "lawful" and "in accordance with a procedure prescribed by law"? Was it justified under one or more sub-paragraphs of Article 5 § 1 (see, for example, *Eminbeyli v. Russia*, no. 42443/02, § 49, 26 February 2009)?