



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

Communicated on 3 July 2014

FIRST SECTION

Application no. 55250/13
Sergey Aleksandrovich SUVOROV
against Russia
lodged on 29 July 2013

STATEMENT OF FACTS

The applicant, Mr Sergey Aleksandrovich Suvorov, is a Russian national, who was born in 1984.

A. The circumstances of the case

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

On 30 June 2012 the applicant was traveling by bus from Novorossiysk to Sochi. The bus was stopped by the police for a check and the applicant was arrested on suspicion of being in possession of drugs. The police seized a sachet found on him. A subsequent examination revealed that the sachet contained 2.1 g of a mixed substance containing JWH-018 (a synthetic cannabis drug). In addition, the applicant's medical examination established that he had consumed the drug before his arrest. That consumption of the drug was qualified as an administrative offence and on 2 July 2012 the applicant was convicted to five days' administrative arrest.

On 5 July 2012 a criminal case against the applicant was opened into acquisition, storage and transportation of JWH-018 at an especially large scale (2.1 g), a crime under Article 228 § 2 of the Criminal Code. On the same day, after expiry of the applicant's administrative arrest, he was taken into police custody in connection with the criminal proceedings against him.

On 6 July 2012 the applicant was formally charged with the imputed crime. On the same day the Lazarevskiy District Court of the Krasnodar Region (the District Court), having referred to the gravity of the charge, and the risk of putting pressure on witnesses and other participants of the criminal proceedings, remanded the applicant in custody until 5 September 2012. No appeal followed.

On 31 August 2012 the District Court extended the applicant's detention until 5 November 2012. The court noted that the applicant was charged with a serious crime and, being at large, could abscond from the investigation authorities and the court. No appeal was lodged against that detention order.

On 2 November 2012 the District Court extended the applicant's detention until 5 January 2013. The court noted that the applicant was charged with a serious crime, had not lived at the place of his residence registration and did not have any "official income". Based on these findings, the court concluded that, being at large, he might abscond, continue criminal activities, put pressure on witnesses or otherwise interfere with the course of justice. No appeal followed.

On 26 December 2012 the District Court, having found that the investigator's motion to extend the applicant's detention had not been approved by a competent officer, refused it. However, on the same day (apparently after the above shortcoming had been remedied), the District Court extended his detention until 5 February 2013. Its decision was based on the same reasons as the previous detention order 2 November 2012. The applicant and his counsel appealed.

On 16 January 2013 the Krasnodarskiy Regional Court (the Regional Court) upheld the detention order on appeal.

On 1 February 2013 the District Court examined the investigator's motion to extend the applicant's detention for further two months. The defense argued that the motion should be refused given that, *inter alia*, the applicant's criminal case was not complex. The District Court granted the motion and extended the applicant's detention until 5 April 2013. The court noted that the applicant was charged with a serious crime, that he had no job and no permanent residence registration in Sochi, and that he was convicted of an administrative offence (illegal consumption of drugs). These circumstances, in the court's view, pointed out to the risks of his absconding and continuing criminal activities. The court did not address the argument concerning the lack of complicity of the criminal case. The applicant and his counsel appealed. They argued, *inter alia*, that the applicant's detention in excess of six-month period was unlawful since his criminal case was not complex.

On 20 February 2013 the Regional Court upheld the detention order in a summary fashion on appeal. The court did not explicitly address the issue of complexity of the applicant's criminal case.

On 25 March 2013 the District Court extended the applicant's detention until 5 May 2013. The court referred to the gravity of the charge, lack of job or permanent income by the applicant, the risks of absconding and interfering with the administration of justice. The applicant and his counsel lodged appeals.

On 3 April 2013 the Regional Court upheld the detention order.

On 30 April 2013 the District Court, having used similar reasoning as in its previous detention orders, extended the applicant's detention until 5 June 2013. It appears that no appeal followed.

On 6 May 2013 the applicant's criminal case arrived at the District Court for trial.

On 17 May 2013 the District Court extended his detention pending trial for six months, until 6 November 2013. The court noted that the

circumstances justifying his detention did not change, given the gravity of his charge. It appears that no appeal followed.

On 2 October 2013 the District Court convicted the applicant as charged and sentenced him to four years' imprisonment. The outcome of the criminal proceeds against the applicant remains unknown.

B. Relevant domestic law

Code of Criminal Procedure of the Russian Federation (“the CCrP”) of 2001, in force since 1 July 2002, as worded at the material time

1. Preventive measures

“Preventive measures” or “measures of restraint” include an undertaking not to leave a town or region, personal surety, bail and detention (Article 98). If necessary, the suspect or accused may be asked to give an undertaking to appear (Article 112).

When deciding on a preventive measure, the competent authority is required to consider whether there are “sufficient grounds to believe” that the accused would abscond during the investigation or trial, reoffend or obstruct the establishment of the truth (Article 97). It must also take into account the gravity of the charge, information on the accused's character, his or her profession, age, state of health, family status and other circumstances (Article 99).

Detention may be ordered by a court in respect of a person suspected of or charged with a criminal offence punishable by more than two years' imprisonment, provided that a less restrictive preventive measure cannot be applied (Article 108 § 1).

2. Time-limits for detention “pending investigation”

After arrest the suspect is placed in detention “pending investigation”. Detention “pending investigation” must not exceed two months (Article 109 § 1). A judge of a district court or the relevant military court may extend the detention up to six months. Further extensions to up to twelve months may be granted by a judge of the same court only in relation to those accused of serious or particularly serious criminal offences, provided that the criminal case is particularly complex and there are grounds justifying detention (Article 109 § 2).

COMPLAINTS

1. The applicant complains under Article 5 § 1 that his detention pending investigation exceeding six-month period, provided for in Article 109 § 2 of the Code of Criminal Procedure, was unlawful since his criminal case was not complex.

2. He also complains under Article 5 § 3 that his detention on remand was unreasonably long and was not based on sufficient reasons and that the investigation of his criminal case was not diligent.

QUESTIONS TO THE PARTIES

1. Was the applicants' detention pending investigation from 5 January to 6 May 2013 lawful, as required by Article 5 § 1 (c) of the Convention? In particular, was the requirement of particular complexity of the applicant's criminal case, provided for in Article 109 § 2 of the Russian Code of Criminal Procedure (see Relevant domestic law), met in the present case? Did the courts comply with this requirement while extending the applicant's detention pending investigation in excess of the six-month time-limit? The Government are invited to submit relevant documents from the applicant's criminal case file in support of their position.

2. Was the length of the applicants' detention on remand in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention? In particular, were there "relevant and sufficient" reasons for the applicants' continued detention (see *Yevgeniy Gusev v. Russia*, no. 28020/05, § 84, 5 December 2013)? Were the proceedings conducted with "special diligence", as required by Article 5 § 3 of the Convention (see *Idalov v. Russia* [GC], no. 5826/03, § 140, 22 May 2012)?