THIRD SECTION

DECISION

Application no. 11656/02
by Māris SARĀNS
against Latvia

The European Court of Human Rights (Third Section), sitting on 3 June 2008 as a Chamber composed of:

 Josep Casadevall, *President,* Corneliu Bîrsan, Boštjan M. Zupančič, Egbert Myjer, Ineta Ziemele, Luis López Guerra, Ann Power, *judges,*and Santiago Quesada, *Section Registrar*,

Having regard to the above application lodged on 12 February 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Māris Sarāns, is a Latvian national who was born in 1972 and is currently serving his prison sentence in the Matīsa Prison. The Latvian Government (“the Government”) were represented by their Agent, Mrs I. Reine.

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

A.  The circumstances of the case

*1. The applicant’s pre-trial detention and the proceedings against him*

On 6 January 1998 the applicant was arrested on suspicion of having committed two aggravated murders and criminal proceedings against him were initiated.

On 31 March 1998, upon completion of the pre-trial investigation, the Criminal Chamber of the Rīga Regional Court received the case.

On 21 November 2000 the Rīga Regional Court found the applicant guilty of two murders and intentional infliction of bodily injuries on several persons and sentenced him to fifteen years’ imprisonment.

On 13 September 2001 the Criminal Chamber of the Supreme Court quashed the judgment of 21 November 2000 and transferred the case back to the public prosecutor’s office for additional pre-trial investigation.

On 17 December 2001, upon completion of the additional pre-trial investigation, the Rīga Regional Court received the applicant’s case.

On 1 November 2002 paragraph 7 of Article 77 of the Criminal Procedure Code entered into force.

On 26 February 2003 the Senate of the Supreme Court extended the applicant’s detention on remand until 1 May 2003.

On 8 April 2003 the Rīga Regional Court found the applicant guilty of two aggravated murders and intentional infliction of bodily injuries on several persons and sentenced him to twenty years’ imprisonment.

On 19 August 2004 the Criminal Chamber of the Supreme Court quashed the judgment of the first instance court, finding the applicant guilty of two aggravated murders, and sentenced him to twenty years’ imprisonment.

On 30 November 2004 the Senate of the Supreme Court dismissed the applicant’s cassation appeal.

*2.  The lawfulness of the applicant’s detention between 1 November 2002 and 26 February 2003*

On several occasions the applicant applied to the Ministry of Justice complaining about the extensive length of his detention on remand and the inactivity of the first instance court regarding the commencement of adjudication of his case. In particular, the applicant complained about the fact that the extension of his pre-trial detention was not duly approved by the Senate of the Supreme Court since the judge of the Rīga Regional Court who was in charge of his case failed to submit a corresponding request and thus acted contrary to the requirements of paragraph 7 of Article 77 of the Criminal Procedure Code. The applicant requested compensation in this respect.

The Ministry of Justice in its reply of 24 February 2003 acknowledged the fact that the extension of the applicant’s detention on remand was not approved by a decision of the Senate of the Supreme Court, which was contrary to paragraph 7 of Article 77 of the Criminal Procedure Code. In this regard, the Ministry contacted the presiding judge of the Criminal Chamber of the Rīga Regional Court, requesting him to consider the legality of the applicant’s detention on remand urgently. At the same time, the judge in charge of the applicant’s case was requested to provide explanations in this respect.

As the result of the intervention of the Ministry of Justice, the Senate of the Supreme Court extended the applicant’s pre-trial detention on 26 February 2003.

On 25 March 2003 the Ministry informed the applicant that a question regarding disciplinary punishment for negligent conduct of the judge in charge of his case was being considered. The applicant was informed that he could not receive any compensation in this regard.

On 26 March 2003 the applicant was notified that the Minister of Justice had decided to initiate disciplinary proceedings against the judge of the Rīga Regional Court for intentional infringement of the law in the course of adjudication of a case regarding his failure to send the applicant’s case to the Senate of the Supreme Court in order to decide the question regarding his detention on remand.

*3.  Restrictions on the applicant’s contacts with his relatives*

According to the applicant, throughout the whole period of his detention on remand his right to receive visits and to correspond with his relatives was subjected to restrictions. Thus, he could meet his wife only once on 1 February 1999 and was allowed to correspond with her only from 6 December 1999. He was allowed to receive only one visit from his mother in January 2001. Since the applicant’s divorce, he could not obtain permission to receive visits from his minor son.

On 11 March 2003 a judge of the Rīga Regional Court replied to the applicant that his request to receive a visit from Ms B. was rejected.

B.  Relevant domestic law

The relevant part of Article 77 of the Criminal Procedure Code *(Latvijas Kriminālprocesa Kodekss)*, applicable at the material time (in force until 1 October 2005) provided that the maximum term of detention on remand during the investigation of a criminal case could not exceed two months. If it was not possible to complete investigation of the case within that period and there were no grounds for altering a preventive measure, a judge could extend the period of detention for up to one year and six months. If necessary, the detained person and his defence counsel could be heard. Extension of detention beyond one year and six months was not allowedand the detained person was entitled to immediate release.

Paragraph 7 of Article 77 (in force between 1 November 2002 and 1 October 2003) provided that in exceptional cases the Senate of the Supreme Court could extend detention beyond one year and six months.

COMPLAINTS

1.  The applicant complained under Article 5 §§ 1 (c) and 5 of the Convention that his detention on remand between 1 November 2002 and 26 February 2003 was unlawful and that he was refused any compensation in this respect.

2.  The applicant complained that his pre-trial detention was contrary to the requirements of Article 5 §§ 3 and 4 of the Convention.

 3.  Invoking Articles 5 and 6 of the Convention, the applicant complained about the length of his detention on remand and the criminal proceedings against him.

4.  The applicant complained in substance under Article 8 of the Convention that throughout his detention on remand he could not meet or correspond with his relatives.

THE LAW

On 2 April 2008 the Court received the following declaration from the Government:

“I, Inga Reine, Representative of the Government of Latvia, declare that the Government of Latvia offer to pay *ex gratia* 8,000 euros to Mr Māris Sarāns with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian lati [LVL-official abbreviation] at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

On 28 April 2008 the Court received the following declaration signed by the applicant:

“I, Māris Sarāns, applicant, note that the Government of Latvia are prepared to pay me *ex gratia* the sum of 8,000 euros with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian lati [LVL-official abbreviation] at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Latvia in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

 Santiago Quesada Josep Casadevall
 Registrar President