

DECISION

16 October 2009

Judge I.V. Sobolev of the Regional Court, Grodno Oblast, in the city of Grodno, having reviewed in open court the matter of A.V. Ozharovskiy's administrative appeal against the decision of the judge in Ostrovets District Court, Grodno Oblast, of 9 October 2009, by which

Andrey Vyacheslavovich Ozharovskiy, born 1965,  
resident in Moscow,  
citizen of the Russian Federation,  
Projects Coordinator with the Ecodefence Group  
[Ekozashchita], a public association,

had imposed upon him an administrative penalty in the form of administrative arrest for a period of 7 days, on the basis of Article 17.1 of the Code of the Republic of Belarus on Administrative Offences.

Having reviewed the case, the judge

HAS ESTABLISHED that:

A.V. Ozharovskiy was found guilty of disorderly conduct.

In his appeal pleadings, A.V. Ozharovskiy contends that he did not commit any violation of public order. He states that his behaviour was a reaction to the rough, illegal actions of people who later turned out to be police officers in plain clothes. He asserts that the witness testimonies gave the court an incorrect account of his behaviour, that no evidence was provided to the court proving that his actions constituted a violation of public order, that the circumstances under which he was apprehended were not thoroughly clarified in court, and that the police officers who charged him with the administrative offence were not questioned in court. In addition, he submits that there were procedural irregularities.

He requests that the decision be set aside and the proceedings terminated.

Having reviewed the case and studied the appeal pleadings, I find that the appeal must be dismissed.

The fact that A.V. Ozharovskiy engaged in disorderly conduct is confirmed by the witness testimonies of T.G. Pilyuk, A.I. Kharkevich, V.I. Tukhto, S.I. Bendasov, A.P. Azevich, O.I. Makhnach and A.A. Karaban.

These witnesses explained to the District Court that during public discussions of the environmental impact assessment of the construction and operation of a nuclear power station in the Republic of Belarus, which were held at the Ostrovets Cinema and Concert Hall in the town of Ostrovets, A.V. Ozharovskiy attempted to bring a packet of leaflets into the hall. After being told repeatedly that the use of printed materials during discussions was prohibited, he attempted to burst into the hall, expressed his discontent loudly, and staged a sit-down on the pavement, drawing the attention of passers-by.

The District Court correctly determined that A.V. Ozharovskiy's actions fell under Article 17.1 of the Code of the Republic of Belarus on Administrative Offences.

The penalty imposed on A.V. Ozharovskiy was within the framework laid down by the article under which his actions fell; furthermore, it was both proportionate to the offence and just.

A.V. Ozharovskiy's appeal pleadings to the effect that all the actions took place at the back of the building and that only 5 or 6 people saw them, is found to be without merit as grounds for asserting the absence of a violation of public order.

The fact that the scene of the incident was a checkpoint for admission to the event, where there were 5 or 6 members of the general public in addition to police officers and representatives of the organizing committee, is not disputed by A.V. Ozharovskiy and is confirmed by documents in the case. Thus, the court was correct in concluding that these events did indeed occur in a public place.

In his appeal, A.V. Ozharovskiy asserts that he did not know the police officers' requests were lawful, as they were wearing plain clothes: but this is equally without merit.

These assertions are refuted by the witness testimonies of A.A. Karaban, V.I. Tukhto, S.I. Bendasov, A.P. Azevich and O.I. Makhnach, who confirmed in the District Court that there were both uniformed and plainclothes police officers at the checkpoint.

Moreover, uniformed officers were also involved in apprehending A.V. Ozharovskiy.

The fact that the organizers of the hearings did not complain is not in itself grounds for terminating proceedings in the case, since this case is not in a category where proceedings are initiated at the request of the victim of the administrative offence.

A.V. Ozharovskiy's assertions that the court proceedings were deficient are without merit.

As is clear from the record of the District Court sitting, the court examined all the evidence provided in the case; A.V. Ozharovskiy submitted no applications calling for additional evidence.

A.V. Ozharovskiy's pleas concerning the need to examine additional evidence – the incident scene investigation report; witness interviews with A.E. Banitsevich and Y.S. Gorid – are unfounded, since the appeal does not provide reasoned arguments as to which of the court's findings this evidence would refute.

It was not established in court that there had been any violations on the part of police officers; therefore A.V. Ozharovskiy's arguments on this point are also without merit.

At the time of the stated events, A.V. Ozharovskiy expressed his discontent loudly and staged a sit-down on the pavement, thus demonstrating his objection to being banned from using the printed material he had brought; he failed to respond to police officers' repeated requests to stop what he was doing, and attempted to force his way into the hall; therefore the court correctly assessed his actions as causing – and aiming to cause – a breakdown of order at an event which was significant for the Republic of Belarus.

A.V. Ozharovskiy's pleas that he was an officially registered participant in the

hearings and had a right to be in the hall, and therefore the police officers were unjustifiably preventing him from participating in the discussion, are clearly far-fetched, since A.V. Ozharovskiy was deliberately defying the rules laid down by the organizers of the public discussions and was violating public order.

A.V. Ozharovskiy's assertions that there were procedural irregularities on the part of the officials who charged him with the administrative offence are not supported by the documents in the case.

In these circumstances, there are no grounds to set aside or alter the decision.

Pursuant to Article 12.9, subparagraph 1(1), of the Procedure and Enforcement Code of the Republic of Belarus on Administrative Offences,

HAS DECIDED:

The decision of the judge in Ostrovets District Court, Grodno Oblast, of 9 October 2009 in regard to Andrey Vyacheslavovich Ozharovskiy is upheld, and his appeal is dismissed.

Judge: signature

This is a true and faithful copy:

Judge:

*[signature]*

*[seal of Regional Court, Grodno Oblast, in the Belarusian language]*