



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

FIRST SECTION

Application no. 32934/10
Ivan Alekseyevich GONCHAROV
against Russia
lodged on 26 April 2010

STATEMENT OF FACTS

The applicant, Mr Ivan Alekseyevich Goncharov, is a Russian national, who was born in 1975 and lives in Volgograd.

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

The applicant, a police officer, stood trial for robbery and illegal storage of weapons.

On 2 July 2009 the Krasnooktyabrskiy District Court of Volgograd found the applicant guilty as charged and sentenced him to four years' imprisonment and conditionally released him on four years' probation. In the proceedings before the trial court the applicant was represented by counsels K. and G.

The applicant appealed against the judgment of 2 July 2009.

On 30 November 2009 the Volgograd Regional Court held an appeal hearing in the applicant's case. Neither the applicant nor his counsels K. and G. were present at that hearing. The appeal court heard the prosecutor who requested that the applicant's conviction be upheld. Having studied the materials of the case, the appeal court upheld the applicant's conviction. It does not appear from the decision of 30 November 2009 that the appeal court verified whether the applicant and his counsels had been duly informed of the hearing and, if they had not, whether the appeal hearing should have been adjourned.

COMPLAINTS

The applicant complains under Article 6 of the Convention that he was not duly notified of the appeal hearing of his criminal case and as a result he

was not provided with an opportunity to defend himself effectively before the appeal court.

He also complains under Article 6 of other shortcomings in the criminal proceedings against him (he was unable to examine at trial a number of prosecution witnesses; the trial court refused to hear two witnesses on his behalf; the trial court refused to question the investigator who had authorised the search in the applicant's flat).

QUESTIONS TO THE PARTIES

Did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention? Were the appeal proceedings before the Volgograd Regional Court on 30 November 2009 compatible with the requirements of Article 6 §§ 1 and 3 (c) of the Convention? In particular:

(a) Was the applicant able to defend himself in those proceedings in person? Was he notified of the appeal hearing of 30 November 2009 in such a way as to have an opportunity to attend it and effectively present his case before the appeal court?

(b) Was the applicant able to defend himself in those proceedings through legal assistance? In case the applicant was represented by counsel of his own choosing, was his counsel notified of the appeal hearing of 30 November 2009 in such a way as to have an opportunity to attend it and effectively present the applicant's case? If the applicant had not sufficient means to pay for legal assistance, did the interest of justice require that he be provided with free legal assistance for the appeal proceedings in question?

(c) Was the applicant able to present his case to the appeal court under the same conditions as the prosecution and to comment on the submissions made by the prosecutor to the appeal court?