



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

FIRST SECTION

Application no. 46974/06
Vyacheslav Yuryevich KAPLENKO
against Russia
lodged on 25 October 2006

STATEMENT OF FACTS

The applicant, Mr Vyacheslav Yuryevich Kaplenko, is a Russian national, who was born in 1968 and lives in Vyazniki. He is represented before the Court by Mr Yu. Kozlov, a lawyer practising in Moscow.

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

On 3 August 2005 the applicant had a drunken fight with Mr G. whom he stabbed with a knife. Mr G. later bled to death.

On 30 November 2005 the police arrested the applicant and brought him to the police station in the town of Aleksandrov in the Vladimir Region. The police officer N. convinced the applicant to write, by own hand, a confession statement which the applicant did.

On the same day the applicant was brought to the prosecutor's office. Before his interview, he had a brief discussion with the State-appointed counsel Ya. who advised him to retract his confession. At the interview with the investigator K., the applicant declared that he had previously slandered himself and that he would exercise his constitutional right to silence, refusing to give any further testimony.

Once the trial began before the Aleksandrov Town Court, the applicant saw the officer N. in the witness stand and realised that N. would be examined about the circumstances in which he had given his confession. The applicant complained to the judge that he had given the statement under duress, and on 10 March 2006 the judge instructed the prosecutor's office to carry out an inquiry into the applicant's allegations. On 12 March 2006 the prosecutor's office reported to the judge that they had interviewed the police officer N. who denied having used any physical or psychological pressure on the applicant and who confirmed that the applicant had written the statement of his own will and by his hand.

On 21 April 2006 the Town Court convicted the applicant of inflicting grievous bodily injuries resulting in the victim's death. The court declared the applicant's statement of 30 November 2005 admissible evidence and held that it should be used as the "foundation for the judgment". Having regard to the applicant's criminal record, it sentenced him to nine years' imprisonment in a high-security colony.

In her grounds of appeal, counsel for the applicant maintained that the statement of 30 November 2005 was inadmissible because it had been obtained under duress and in the absence of a lawyer.

On 8 June 2006 the Vladimir Regional Court rejected the appeal in a summary fashion. It held that the testimony by witnesses and the forensic evidence corroborated the applicant's confession statement.

COMPLAINTS

The applicant complains under Article 5 of the Convention about the unlawfulness of his arrest on 30 November 2005.

The applicant complains under Article 6 §§ 1 and 3 (c) of the Convention that he was not afforded legal aid during his first interview with the police officer and that the trial was not fair.

The applicant also complains under Article 6 § 3 (b) and (d) that he was not given sufficient time to prepare his defence and that the trial court rejected his request for an additional examination of one witness.

QUESTION TO THE PARTIES

Having regard to the facts that the applicant gave his confession statement on 30 November 2005 without being assisted by a lawyer and without a prior notification of his rights and that the statement constituted the key evidence against him in his trial, was there a violation of Article 6 § 3 (c) of the Convention, read in the light of paragraph 1 of that provision (see *Salduz v. Turkey* [GC], no. 36391/02, § 55, ECHR 2008)?