



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

FIRST SECTION

Application no. 24018/07
Yevgeniy Nikolayevich LITVINOV
against Russia
lodged on 22 April 2007

STATEMENT OF FACTS

The applicant, Mr Yevgeniy Nikolayevich Litvinov, is a Russian national, who was born in 1983 and prior to his arrest lived in Chelyabinsk.

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

The applicant stood accused of causing grievous bodily injury which resulted in the victim's death. There was only one eye-witness to the fight, in which the victim had been lethally injured, Mr T. who was of the Ingush ethnic origin.

The investigator took evidence from Mr T. who described how the applicant had beaten the victim and arranged his presence on the crime scene for a reconstruction of the events.

By judgment of 8 September 2006, the Argayashevskiy District Court of the Chelyabinsk Region found the applicant guilty as charged and sentenced him to nine years' imprisonment in a high-security correctional colony. The witness Mr T. did not appear in court and his pre-trial statement had been read out, despite the objections by the defence. Among other witnesses, the court heard the testimony by Mr S., Mr I. and Mr K. whom Mr T. had allegedly told that he had beaten the victim together with the applicant. They also stated that Mr T.'s Russian was heavily accented but understandable. The District Court found as follows:

“The court considers unfounded the argument by the defence that the only direct evidence in the instant case was the interview record of the witness T. who was allegedly examined once, in breach of the rules of criminal procedure, in the absence of an interpreter; the court considers the arguments by the defence unsustainable, they are contradicted by the testimony from Mr K., Mr S. and Mr I. who stated that T. had a good mastery of Russian and served in the ranks of the Russian Army ... the

interview was prepared in compliance with Article 166 of the Code of Criminal Procedure, his rights were explained to the witness, the record was signed and accompanied with his handwritten mention that he had no remarks or complaints. Moreover, his statements were verified at the crime scene and were found to be consistent with his first interview record, they also accord with the testimony from Mr K., Mr S. and Mr I. whom he had told that [the applicant] had beaten the guy...”

In his statement of appeal, the applicant complained that the witness T. had been interviewed in the absence of an Ingush-Russian interpreter and that there were no reasons preventing his attendance in court.

On 23 January 2007 the Chelyabinsk Regional Court upheld the conviction, noting that the District Court had “reasonably used [the T.’s statements] as evidence” and that, according to other witnesses, T. had been fluent in Russian.

COMPLAINT

The applicant complains under Article 6 § 3 (d) of the Convention that the main witness against him was not examined in open court.

QUESTION TO THE PARTIES

Was there a violation of Article 6 §§ 1 and 3 (d) of the Convention on account of the Russian courts’ failure to ensure the attendance and examination of the witness T. in the criminal proceedings against the applicant?