



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

FIRST SECTION

Application no. 10586/07
A.Y.
against Russia
lodged on 27 January 2007

STATEMENT OF FACTS

The applicant, Mr A.Y., is a Russian national, who was born in 1972 and is detained in Kazan.

The circumstances of the case

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

On 29 September 2005 the prosecutor's office opened a criminal investigation in Sh.'s rape and murder. A. and M. questioned by the police indicated that they had seen Sh. together with some man at the bus stop where her body had been later discovered. An identikit image was prepared on the basis of their statements. The investigator concluded that the crime might have been committed by a person with a mental disorder. The identikit image was shown in psychiatric clinics and one of the doctors stated that the image reminded her of the applicant whom she treated for schizophrenia.

On 4 October 2005 the applicant was arrested. On the same day A. identified him as a person whom he had seen with Sh.

On 6 October 2005 the Sormovskiy District Court of Nizhniy Novgorod authorised the applicant's detention pending investigation. It was further extended on 25 November 2005, 30 January, 24 March and 28 April 2006. According to the applicant, the court failed to ensure his participation in the court hearings. It appears that the applicant's lawyer was present and made submissions to the court.

On 11 October 2005 M. also identified the applicant as the person she had seen with Sh.

On 13 October 2005 the applicant was charged with Sh.'s murder.

On 20 December 2005 forensic medical experts examined the applicant and concluded that, due to his mental condition, he could not be held responsible for having committed the offences he had been charged with.

On 24 January 2006 the applicant was transferred to a psychiatric hospital.

It appears that the District Court held several hearings in the applicant's case. The applicant was unable to attend them. His mother and a lawyer were present.

On 5 July 2006 the District Court found that Sh.'s rape and murder had been committed by the applicant. The court further established that the applicant was mentally incompetent to be held liable for those criminal acts and ordered his detention and treatment in a psychiatric hospital in Kazan. The applicant did not attend a hearing.

On 25 August 2006 the Nizhniy Novgorod Regional Court upheld the judgment of 5 July 2006 on appeal. The applicant was not present.

COMPLAINTS

The applicant complains under Article 5 § 4 of the Convention that he was unable to participate in the court hearings concerning the extension of his pre-trial detention on 25 November 2005, 30 January, 24 March and 28 April 2006.

The applicant complains under Article 6 § 3 (d) of the Convention that he was unable to participate in the criminal proceedings against him.

The applicant complains under Article 6 § 1 of the Convention that the trial court was not impartial. In particular he alleges that the court erred in assessing evidence and wrongfully concluded that the applicant had committed the offence he had been charged with.

QUESTION TO THE PARTIES

Was the applicant able to defend himself in person, as required by Article 6 § 3 (c) of the Convention, in the course of the criminal proceedings against him which ended with the judgment of the Nizhniy Novgorod Regional Court of 25 August 2006?