



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

FIRST SECTION

Application no. 45057/06
Sergey Aleksandrovich SOBOLEV
against Russia
lodged on 15 June 2006

STATEMENT OF FACTS

The applicant, Mr Sergey Aleksandrovich Sobolev, is a Russian national who was born in 1960 and lives in the Krasnodar Region.

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

On 19 April 2006 the applicant was arrested on suspicion of fraud.

The prosecutor petitioned the Slavyanskiy District Court of the Krasnodar Region for remand of the applicant, referring to the gravity of the charge, the fact that his involvement into fraud had been supported by evidence, that he had denied his guilt and had attempted to put pressure on a witness, Mr O. There were therefore reasons to believe that he might interfere with the proceedings.

The applicant asked to be released, submitting that there was no evidence of his involvement in fraud. He had a permanent place of residence and a family. There was therefore no risk of absconding.

On 21 April 2006 the Slavyanskiy District Court ordered the applicant's remand in custody. It noted that the applicant's involvement in fraud had been proved by evidence, namely witness statements and material evidence. The prosecutor's arguments in favour of remand were supported by relevant materials enclosed with his petition, such as information about an accomplice's absconding, the applicant's statements denying his guilt and statements by witnesses, including Mr O. There were therefore reasons to believe that the applicant might abscond or reoffend.

The applicant appealed, submitting, in particular, that he had not put any pressure on Mr O. The District Court had accepted without verification the prosecutor's allegations of pressure. Mr O. had not been questioned in court and no evidence of pressure on him had been submitted by the prosecutor.

On 10 May 2006 the Krasnodar Regional Court examined the appeal. The applicant was not brought to the courtroom. His counsel, who had not

been informed about the date of the hearing, did not attend. The prosecutor attended and made submissions. On the same day the Regional Court upheld the remand order on appeal, finding that it had been lawful, well-reasoned and justified. The District Court had taken into account the fact that the applicant had attempted to put pressure on Mr O. and that there was a risk of his absconding, reoffending or interfering with the investigation. It had not been necessary to question Mr O. because “when examining the issue of remand courts could not establish facts amenable to proof”.

On an unspecified date in June 2006 the applicant’s detention was extended.

On an unspecified date in July 2006 the applicant was released after giving an undertaking not to leave his place of residence.

On 29 February 2012 the criminal proceedings against the applicant were discontinued for the absence of *corpus delicti* in his actions.

COMPLAINTS

The applicant complains under Article 5 §§ 1 (c) and 2 of the Convention that he had not been informed promptly about the reasons for his arrest and that there had been no reasonable suspicion against him and no grounds to arrest him and remand him in custody. He further complains under Article 6 § 1 of the Convention about his and his counsel’s absence from the appeal hearing of 10 May 2006.

The applicant complains under Articles 6 § 1 and 13 of the Convention about various procedural defects in the criminal proceedings against him. He complains under Article 6 § 2 of the Convention that the wording of the remand decision of 21 April 2006 violated his right to be presumed innocent.

The applicant complains under Articles 10 and 14 of the Convention that he was prosecuted for his criticism of the authorities.

In his letter of 10 September 2011 the applicant complains under Article 3 of the Convention about the allegedly inhuman conditions of his detention.

QUESTIONS TO THE PARTIES

1. Was the applicant’s detention compatible with the requirements of Article 5 § 3 of the Convention? In particular, on which date were the criminal proceedings into fraud opened and on which date was the applicant informed of those criminal proceedings? What was the stage of the criminal proceedings on the date when the applicant was arrested? Taking into account the stage of the criminal proceedings and the length of the applicant’s detention, did the existence of a reasonable suspicion provided a sufficient ground for his detention (see *McKay v. the United Kingdom* [GC], no. 543/03, §§ 45 and 46, ECHR 2006-X)? If no, was his detention based on “relevant and sufficient” reasons? The Government are requested to submit

a copy of the prosecutor's petition for remand of the applicant, with enclosures.

2. Given that the applicant was neither present nor represented by counsel at the appeal hearing of 10 May 2006, were the proceedings in conformity with the procedural requirements of Article 5 § 4 of the Convention?