



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

FIRST SECTION

Application no. 16635/09
Nikolay Sergeyevich TALTYGIN
against Russia
lodged on 22 December 2008

STATEMENT OF FACTS

The applicant, Mr Nikolay Sergeyevich Taltygin, is a Russian national, who was born in 1978 and lives in Stavropol.

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

On 11 December 2007 the applicant, a police officer, was arrested on suspicion of extorting bribes from Sh., P., B., G. and Br.

On 13 December 2007 he was charged with bribery, an offence under Article 290 of the Criminal Code.

On 14 December 2007 the Leninskiy District Court of Stavropol remanded him in custody.

On 5 May 2008 the Leninskiy District Court extended the applicant's detention on remand until 11 June 2008.

On 26 May 2008 the Stavropol Interdistrict Investigations Committee discontinued the criminal proceedings on account of bribery and ordered that the proceedings be continued on account of fraud.

On 30 May 2008 the applicant was charged with fraud, an offence under Article 159 of the Criminal Code. In particular, he was accused of fraudulently obtaining money from Sh., P., B., G. and Br. against a false promise not to arrest or discipline them.

On 7 June 2008 the Leninskiy District Court extended the applicant's detention until 6 July 2008. It noted that the applicant was charged with several counts of bribery, an offence under Article 290 of the Criminal Code, and found that there was no reason to amend the preventive measure. It relied on the gravity of the charge and the risks of absconding or interfering with the proceedings.

In his appeal submissions the applicant complained, in particular, that the extension order had been based on the charge of bribery which had been dropped. The extension order had been therefore unlawful. He also

complained that his detention from 26 to 30 May 2008 had been unlawful because during that period he had not been charged with any offence.

On 25 June 2008 the Stavropol Regional Court upheld the extension order of 7 June 2008 on appeal. It found that the District Court had correctly established that there was no reason to release the applicant who had been charged with a serious offence of bribery. Such issues as the scope of the charge or whether the charge was supported by evidence could not be examined at the current stage of the proceedings.

COMPLAINT

The applicant complains under Article 5 of the Convention that his detention after 26 May 2008 was unlawful. In particular, his detention from 26 to 30 May 2008 was unlawful because during that period he was not charged with any offence. As to his detention starting from 30 May 2008, it was based on the charge of bribery which had been earlier dropped.

QUESTIONS TO THE PARTIES

1. Was the applicant's detention from 26 May to 6 July 2008 "lawful" in the meaning of Article 5 § 1 (c) of the Convention? In particular:

(a) What was the applicant's procedural status from 26 to 30 May 2008? Given that the charge of bribery was dropped on 26 May 2008 and the new charge of fraud was not brought until 30 May 2008, did the applicant have the procedural status of a "suspect" or "accused" within the meaning of the Code of Criminal Procedure during that period? The Government are requested to produce documents confirming the applicant's procedural status during that period.

(b) What was the legal basis for the applicant's detention from 26 to 30 May 2008? By which legal provisions was his detention governed during that period?

(c) Given that the charge of bribery was dropped on 26 May 2008, did the detention order of 5 May 2008 by the Leninskiy District Court of Stavropol constitute a lawful basis for the applicant's detention from 26 May to 11 June 2008?

(d) Given that the extension order of 7 June 2008 was based on the charge of bribery that had been dropped on 26 May 2008, was the applicant's detention from 11 June to 6 July 2006 lawful?

(e) Given that the charge of bribery was dropped on 26 May 2008, was the applicant's detention from 26 May to 6 July 2008 on the basis of that charge arbitrary?

(f) Was the applicant's detention from 26 May to 6 July 2008 based on a reasonable suspicion against him, as required by Article 5 § 1 (c) of the Convention? In particular, taking into account that the domestic courts extended the applicant's detention by reference to the charge of bribery after that charge had been dropped, did they assess the reasonableness of the suspicion against the applicant? As regards the new charge of fraud, was the reasonableness of that suspicion examined by the domestic courts?

2. After the charge of bribery was dropped and the new charge of fraud was brought against the applicant, was he brought promptly before a judge or other officer authorised by law to exercise judicial power and capable of examining lawfulness issues and whether or not there is a reasonable suspicion that he had committed the new offence imputed to him, as required by Article 5 § 3 of the Convention (see *Medvedyev and Others v. France* [GC], no. 3394/03, §§ 123-125, ECHR 2010)?