



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

FIRST SECTION

Application no. 11010/10
Oleg Aleksandrovich KISELEV
against Russia
lodged on 13 January 2010

STATEMENT OF FACTS

The applicant, Mr Oleg Aleksandrovich Kiselev, is a Russian national, who was born in 1965 and lives in the town of Vsevolozhsk, the Leningrad Region.

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

On 26 September 2008 a number of individuals seized one V. One day later V. escaped and complained to the police.

On 9 October 2008 an investigator of the investigation department of the St Petersburg City Prosecutor's office decided to bring criminal proceedings against the applicant in connection with that episode. The charges were amended on 25 February 2009. Since the applicant apparently could not be located, the decision was taken in his absence.

On 25 February 2009 the investigation applied to a court with a request to detain the applicant pending criminal proceedings and to place him on the international list of fugitives.

On 2 March 2009 the Vasileostrovskiy District Court of the city of St Petersburg granted the request.

It appears that the applicant has been neither notified, nor aware of the above events.

On 22 July 2009 the applicant was arrested by the police of the town of Sokol of the Vologod Region.

On the next day he was transferred to remand prison IZ-35/2 located in the town of Vologda and on 24 July 2009 to remand prison IZ-47/4 of the city of St Petersburg, in which he was held from 27 July 2009 until his release (see below).

The applicant submits that he became aware of the reasons for his arrest for the first time on 5 August 2009.

In August 2009 the applicant brought appeal proceedings against the decision of 2 March 2009.

On 1 September 2009 the St Petersburg City Court granted his appeal, quashed the decision of 2 March 2009 as unlawful and ordered the first instance court to re-examine the investigator's request of 25 February 2009. The ruling did not address the issue of the applicant's continued detention.

On 18 September 2009 the Vasileostrovskiy District Court of the city of St Petersburg re-examined the request of 25 February 2009 and rejected it as irregular and unlawful. The applicant has been released at once.

COMPLAINTS

1. The applicant complains under Articles 5 §§ 1 and 5 of the Convention that despite the finding that his detention on remand between 22 July and 1 September 2009 had been domestically unlawful he is unable to receive a compensation in this connection.

2. The applicant also complains under Article 5 § 1 that from 1 to 18 September 2009 his detention was not covered by any valid domestic decision, since the City Court failed to address this question in its decision of 1 September 2009.

3. Relying on Articles 5 §§ 2 and 4, the applicant complains about the authorities' failure to notify him properly and timeously about the reasons for his arrest, which delayed his appeal against the decision of 2 March 2009.

QUESTIONS TO THE PARTIES

1. Was the applicant's detention on remand between 22 July and 1 September 2009 lawful within the meaning of Article 5 § 1 of the Convention?

2. If not, does the applicant have a claim under the domestic law to receive a compensation in this connection, as required by Article 5 § 5?

3. What was the basis for the applicant's detention between 1 and 18 September 2009? Was this detention domestically lawful within the meaning of Article 5 § 1?

4. When exactly was the applicant notified about the grounds and reasons for his arrest, which took place on 22 July 2009? The respondent Government are invited to justify their answer with reference to copies of the relevant case file documents.

5. In view of the answers to the above question, can it be said that the requirements of Article 5 § 2 were complied with? Also, can it be said that the applicant had an effective opportunity to appeal against his arrest and detention, as required by Article 5 § 4?