



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

## FIRST SECTION

Application no. 38372/13  
Gevorg Gagikovich ALIVORYAN  
against Russia  
lodged on 4 June 2013

### STATEMENT OF FACTS

1. The applicant, Mr Gevorg Gagikovich Alivoryan, is an Armenian national, who was born in 1983 and lives in Artashat. He is represented before the Court by Mr Z.Z. Gabrielyan, a lawyer practising in Saint Petersburg.

#### **A. The circumstances of the case**

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

3. On 8 June 2011 the applicant was apprehended by police in his residence in Saint Petersburg on suspicion of infliction of grave bodily injuries on Mr N. He was detained in the 41<sup>st</sup> Police Precinct of Frunzenskiy District of Saint Petersburg.

4. On 8 and 9 June 2011 the applicant was interrogated by police without an interpreter despite of his allegedly insufficient knowledge of the Russian language. After being questioned by the police and an investigator he signed interrogation records containing self-incriminating statements.

5. On 10 June 2011 the Frunzenskiy District Court of Saint Petersburg authorised the applicant's pre-trial detention relying *inter alia* on his statements made to the police. The applicant was not provided with an interpreter for the hearing.

6. On 3 November 2011 the applicant was released under personal guarantee [*личное поручительство*] provided by Mr Kh.

7. On 6 December 2011 the Head of the Investigative Department of the Frunzenskiy District of Saint Petersburg terminated criminal proceedings against the applicant due to absence of evidence demonstrating his complicity in the crime. The decision stated that the applicant had the right to rehabilitation.

8. The applicant initiated proceedings seeking award of non-pecuniary damages in the amount of 1,000,000 Russian roubles (RUB) (approximately 25,000 euros (EUR)).

9. On 13 September 2012 the Petrogradskiy District Court of Saint Petersburg ruled in favour of the applicant in part. Having regard to the applicant's detention of four and a half months and overall criminal prosecution of six months the District Court awarded RUB 100,000 (EUR 2,500) in non-pecuniary damages.

10. The applicant appealed alleging unreasonableness of the amount of awarded damages; however the appeal was dismissed on 24 January 2013 by the Saint Petersburg City Court.

### **B. Relevant domestic law and practice**

11. The Code of Criminal Procedure of the Russian Federation of 2001, which entered into force on 1 July 2002, provides in Article 133 that a suspect or an accused is entitled to full compensation of pecuniary and non-pecuniary damages caused by criminal prosecution if the latter was terminated on rehabilitating grounds, including absence of evidence demonstrating complicity in crime. Article 136 of the Code provides that consideration of lawsuits for recovery of damages fall under jurisdiction of civil courts.

12. The Civil Code of the Russian Federation of 2002, which entered into force on 1 February 2003, provides in Article 1070 that a damage caused to a person by *inter alia* unlawful prosecution and pre-trial detention shall be compensated by the Treasury in full irrespective of the guilt of investigative, prosecutorial or judicial authorities.

## **COMPLAINTS**

13. The applicant complains under Article 5 of the Convention that he was unlawfully detained pending trial and that the amount of compensation provided to him was insufficient to remedy the alleged violation.

### **QUESTIONS TO THE PARTIES**

1. May the applicant still claim, given award of damages by the Petrogradskiy District Court of Saint Petersburg on 13 September 2012, to be a victim of a violation of Article 5 of the Convention, within the meaning of Article 34 of the Convention?
2. Was the applicant deprived of his liberty in breach of Article 5 § 1 (c) of the Convention?
3. Did the applicant have an effective and enforceable right to compensation for his detention in alleged contravention of Article 5 § 1, as required by Article 5 § 5 of the Convention? Was the amount of non-pecuniary damages awarded by the Petrogradskiy District Court of Saint Petersburg on 13 September 2012 compatible with the abovementioned provisions?
4. The Government are invited to submit copies of all relevant decisions concerning the applicant's deprivation of liberty, including motions for pre-trial detention (*ходатайства о заключении под стражу*), detention orders (*постановления о заключении под стражу*), and decisions of the appeal courts if any.