



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

Communicated on 5 March 2014

FIRST SECTION

Application no. 61673/13
Andrey Yuryevich RODIONOV
against Russia
lodged on 26 August 2013

STATEMENT OF FACTS

1. The applicant, Mr Andrey Yuryevich Rodionov, is a Russian national, who was born in 1975 and lives in Bologoe, Tver Region.

A. The circumstances of the case

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

3. On 11 August 2005 the applicant was apprehended by police on suspicion of aggravated bribery. 4. On 12 August 2005 the Moskovskiy District Court of Tver authorised the applicant's pre-trial detention and on 17 August 2005 he was indicted.

5. On 7 October 2005 the applicant was released on his own recognizance. Subsequently the criminal proceedings against the applicant were suspended and re-initiated on multiple occasions.

6. On 22 June 2010 the investigator of the Bologovskiy Interdistrict Investigative Department of Tver Region terminated criminal proceedings against the applicant due to absence of criminally culpable actions on his part. By the same decision the release on his own recognizance was terminated and it was acknowledged that the applicant has the right to rehabilitation.

7. The applicant initiated proceedings seeking award of non-pecuniary damages in the amount of 1,035,169 Russian roubles (RUB) (approximately 26,000 euros (EUR)).

8. On 11 December 2012 the Bologovskiy Town Court of Tver Region ruled in favour of the applicant in part. Having regard to the applicant's detention of two months and overall criminal prosecution of almost five years the Town Court awarded RUB 200,000 (EUR 4,800) in non-pecuniary damages.

9. The applicant appealed alleging unreasonableness of the amount of awarded damages; however the appeal was dismissed on 4 April 2013 by the Tver Regional Court.

B. Relevant domestic law

10. 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.

11. 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

12. 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 Bologovskiy Town Court of Tver Region on 11 December 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 Bologovskiy Town Court of Tver Region on 11 December 2012 compatible with the abovementioned provisions?