



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

Communicated on 3 July 2014

FIRST SECTION

Application no. 43734/14
Aleksey Anatolyevich NAVALNY
against Russia
lodged on 6 June 2014

STATEMENT OF FACTS

The applicant, Mr Aleksey Anatolyevich Navalny, is a Russian national, who was born in 1976 and lives in Moscow. He is represented before the Court by Ms O. Mikhaylova, a lawyer practising in Moscow.

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

The applicant is a political activist, opposition leader, anti-corruption campaigner and popular blogger.

On 13 December 2012 the Investigative Committee of the Russian Federation opened criminal proceedings to investigate the allegations of fraud and money laundering by the applicant. He was suspected of having defrauded the limited liability company Yves Rocher Vostok (ООО “Ив Роше Восток”), the Russian subsidiary of French company Yves Rocher.

On 17 December 2012 the Investigative Committee ordered the applicant not to leave Moscow pending investigation to secure his appearance before the investigator. On the same day the investigator granted the applicant’s request to allow him travel to the Moscow region, subject to the applicant’s obligation to report his travel to the investigator.

On 15 November 2013 the applicant was informed of the end of the investigation in this criminal case.

On 13 January 2014 the applicant informed the investigator that before and during the New Year holidays he had travelled to the Moscow region.

On the same day the Investigative Committee cancelled the permit to travel to the Moscow region and imposed a requirement of prior authorisation of the applicant’s travel to the Moscow region by the investigator. The applicant also received a warning for having travelled to the Moscow region without due authorisation by the investigator.

On 14 January 2014 the Investigative Committee rejected the applicant's new request to allow him travel to the Moscow region.

On 31 January 2014 the applicant seized the Basmannyy District Court of Moscow with a complaint under Article 125 of the Code of Criminal Procedure. He challenged the travel ban to the Moscow region. He alleges that no decision has been taken pursuant to this complaint.

On 24 February 2014 a number of public demonstrations were held in the centre of Moscow to protest against the criminal conviction of protestors arrested during the political rally on Bolotnaya Square in Moscow on 6 May 2012. The applicant took part in two demonstrations and on both occasions he was arrested by the police for the alleged breach of regulations for holding a demonstration and for the alleged failure to obey a lawful order of the police. On the same day he was convicted of the administrative offences under Articles 20.2 and 19.3 of the Code of Administrative Offences.

On 26 February 2014 the Investigative Committee requested the Basmannyy District Court to place the applicant under the house arrest pending the criminal investigation. The applicant objected and referred to his complaint of 31 January 2014. He requested to maintain the residence order; in the alternative, he offered a bail of 500,000 roubles.

On 28 February 2014 the Basmannyy District Court held to place the applicant under the house arrest until 28 April 2014 because of the risk of absconding, continuing the criminal activity, threats to witnesses and other participants of the criminal proceedings, destruction of evidence or obstruction of the course of justice by other means. The court also referred to the applicant's prior criminal record and to his recent conviction of administrative offences. By the same order the court imposed on the applicant a number of restrictions for the period of the house arrest, in particular:

- “- [prohibited] to leave or change the [place of the registered address] without the authorisation by the investigator ...;
- to communicate with any persons, except for the immediate family, as defined by law, the legal counsels representing him in the criminal case, and the [investigating officials];
- to receive and to send correspondence, including letters, telegrams, parcels and emails;
- to use the means of communication and the telecommunication network Internet;
- to make statements, declarations, addresses or to give comments in connection with this criminal case using the mass media.”

The applicant challenged this order. On 24 March 2014 the Moscow City Court dismissed his appeal and upheld the order for the house arrest.

It appears that the initial order has been extended and that the applicant is still under the house arrest.

COMPLAINTS

The applicant complains under Article 5 §§ 1, 3 and 4, Article 10 and Article 18 of the Convention about the decision to place him under the house arrest and about the restrictions imposed on him for its duration. He claims, in particular, that the decision had been unlawful and unjustified in the circumstances of his case. He alleges that the authorities applied these measures for purposes other than bringing him to justice, but in order to prevent him from pursuing his public and political activity.

QUESTIONS TO THE PARTIES

1. Having regard to the reasons expressly relied on by the domestic courts in the orders for preventive measures, was the applicant's placement under the house arrest justified by "relevant and sufficient reasons", as required by Article 5 § 3 of the Convention in conjunction with Article 5 § 1 (c) thereof?

2. Was the procedure by which the applicant sought to challenge the lawfulness of his house arrest in conformity with Article 5 § 4 of the Convention? In particular, did the courts address the applicant's specific arguments challenging the grounds for the need of this preliminary measure?

3. Has the Basmanyy District Court examined the applicant's complaint filed on 31 January 2014 under Article 125 of the Code of Criminal Procedure? Is so, the Government are invited to produce copies of the decision taken, and if not, to indicate the reason.

4. Having regard to the restrictions imposed on the applicant for the duration of the house arrest, has there been an interference with the applicant's freedom of expression, in particular his right to receive and impart information and ideas, within the meaning of Article 10 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2?

5. Were the restrictions imposed by the State in the present case, purportedly pursuant to Article 5 of the Convention, applied for a purpose other than those envisaged by that provision, contrary to Article 18 of the Convention?

The Government are invited to provide an update on the progress of the criminal case against the applicant and on the preventive measures currently applied to him (house arrest or other) and on any related restrictions imposed on him. If the applicant's house arrest was extended after the date indicated in the statement of facts, the Government are invited to indicate the overall length of the detention and the reasons for the extension, and to produce copies of the relevant detention orders and judicial decisions.