



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

Communicated on 8 July 2014

FIRST SECTION

Application no. 11617/10  
Andrey Vladimirovich NAUMOV  
against Russia  
lodged on 20 January 2009

**STATEMENT OF FACTS**

The applicant, Mr Andrey Vladimirovich Naumov, is a Russian national, who was born in 1964 and lives in Saint Petersburg.

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

**A. Criminal proceedings in respect of the road accident**

On 10 October 2003 at approximately 7.40 p.m. two cars driven by Mr K. and Mr S. collided in a road accident. According to the applicant, Mr S. was a police officer of the Vyborgskiy Police Department no. 36. As a result of the collision Mr K.'s car was thrown off the road on the sidewalk where it hit the applicant. The applicant was diagnosed with open craniocerebral trauma which included brain contusion, subarachnoid haemorrhage and fracture of the calvarium and skull base. He had to undergo decompressive osteoplastic craniotomy of the left parietotemporal region and removal of crushed parts of the temporal lobe. As a result of the injuries sustained the applicant developed organic personality disorder of pseudopsychopathic type and anosognosia (loss of speech and memory), which rendered him disabled. He requires constant medical treatment and monitoring.

On 27 November 2003 the Investigator of the Department of the Interior of the Vyborgskiy District of Saint Petersburg (Vyborgskiy Department of the Interior) instituted a criminal investigation into the road accident under Article 264 (1) of the Criminal Code. During the investigation forensic medical examination of the victim, technical examination of the vehicles and comprehensive examination of the vehicles' traces on the road were carried out.

On 20 September 2004 the investigator discontinued the proceedings on the ground of lack of evidence of a crime.

On 25 October 2004 a higher prosecutor quashed the decision of 20 September 2004 and resumed the proceedings.

On 14 February 2005 the investigator decided to discontinue the criminal proceedings, having detected no signs of *corpus delicti* in the accident.

On 22 February 2005 this decision was quashed by the prosecutor who remitted the case for additional investigation.

On 21 March 2006 the investigator discontinued the criminal proceedings due to the expiry of statutory time-limits for criminal investigation.

On 24 October 2006 the applicant appealed to a prosecutor.

On 1 November 2006 the prosecutor of the Prosecutor's Office of the Vyborgskiy District of Saint Petersburg upheld the decision of the investigator and rejected the applicant's appeal. In his decision the prosecutor noted that the criminal investigation was lawfully discontinued on the ground of expiration of statutory time-limits. During the investigation a number of expert examinations were carried out, but they neither established anyone's fault in the road accident nor showed evidence of an offence.

The applicant subsequently lodged complaints to various authorities including prosecutors of different levels, the Head of Saint Petersburg Department of the Interior and the Minister of the Interior.

In the letter of 19 August 2009 the Prosecutor's Office of the Vyborgskiy District of Saint Petersburg informed the applicant that the investigation file had been handed over to the Head of the Investigative Department of the Saint Petersburg Department of the Interior so as to check the procedural decisions taken in the case. According to the letter, the applicant's complaint would be examined after the investigation file was sent back to the prosecutor's office.

According to the applicant, he did not appeal against the discontinuation of the criminal proceedings to a court as because of his state of health he could not lodge the appeal in time.

## **B. Civil proceedings for damages**

On unspecified date the applicant instituted civil proceedings against Mr K. and Mr S. before the Vyborgskiy District Court of Saint Petersburg. He claimed 1,450,000 roubles (RUB) in respect of non-pecuniary damage and RUB 55,546.49 in respect of pecuniary damage.

On 22 May 2006 the Vyborgskiy District Court of Saint Petersburg partially granted the applicant's claim. The court awarded the applicant RUB 100,000 in respect of non-pecuniary damage and RUB 55,546.49 in respect of pecuniary damage and dismissed the remainder of the claim. It is not clear whether the applicant appealed against this decision, which became final and enforceable on 11 July 2006.

## COMPLAINT

The applicant complains about the State's failure to conduct an effective investigation into the road accident in which he sustained serious injuries. He relies on Article 2, 3, 5 and 13 of the Convention.

## QUESTIONS TO THE PARTIES

1. Has the investigation in the applicant's case been reopened after the decision of 1 November 2006 of the prosecutor of the Prosecutor's Office of the Vyborgskiy District of Saint Petersburg, in particular, in the light of the letter of the prosecutor's office of 19 August 2009?

2. In the circumstances of the case, was the State under a positive obligation under Article 2 or Article 3 of the Convention to conduct effective investigation into the accident or to provide the applicant with effective compensatory remedy against the perpetrator? If so, was that obligation met by the authorities, in particular in the light of the Court's case-law establishing the criteria of effective investigation and adequate compensatory remedy?

3. Did the applicant have at his disposal an effective domestic remedy for his complaints under Articles 2 and 3, as required by Article 13 of the Convention?

4. Has the applicant appealed against the decision of the Vyborgskiy District Court of Saint Petersburg of 22 May 2006? If so, the parties are requested to provide a copy of the appeal statement and the appeal decision.