



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

Communicated on 13 October 2014

FIRST SECTION

Application no. 35880/14
Viktor Nikolayevich ZAKHAROV
against Russia
lodged on 1 May 2014

STATEMENT OF FACTS

The applicant, Mr Viktor Nikolayevich Zakharov, is a Russian national, who was born in 1966 and lives in Moscow. He is represented before the Court by Mr S. Minenkov, a lawyer practising in Moscow.

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

The applicant claims that on 6 May 2012 he arrived at Bolotnaya Square to take part in the peaceful demonstration, but the authorities altered the originally authorised layout of the meeting and reduced the venue, causing stampede. At about 5.30 p.m. the police declared the early closure of the meeting and began to disperse the participants.

The applicant alleges that he had not breached public order during these events, but was a victim of unwarranted police violence. He claims that a police officer has hit him on the head with a truncheon and injured him on the forehead. He submitted photographs showing the police hitting a crowd with truncheons and his bleeding face. He also submitted a medical certificate of 6 May 2012 stating that he was diagnosed with a contused wound of the frontal lobe. On the same day the applicant reported the incident to the police.

On 23 June 2012 the applicant filed a complaint with the Investigative Committee of the Russian Federation and requested it to investigate in criminal proceedings the abuse of powers by the police on 6 May 2012 which had resulted in his injury.

On 20 March 2013 the applicant was informed that following the inquiry the Investigative Committee had dispensed with criminal investigation into his allegations of ill-treatment. The decision stated, in particular, that the applicant had been unable to identify the policeman who had ill-treated him. The applicant claims that the alleged identification had not taken place.

On an unidentified date in April 2013 the applicant challenged the decision to dispense with criminal proceedings before the Zamoskvoretskiy inter-district prosecutor's office and the Zamoskvoretskiy District Court of Moscow.

On 17 May 2013 the Zamoskvoretskiy inter-district prosecutor's office upheld the decision to dispense with criminal investigation into the applicant's allegations of ill-treatment. The applicant challenged this decision before the Zamoskvoretskiy District Court.

On 16 August 2013 the Zamoskvoretskiy District Court dismissed the applicant's complaint about the decision of the Investigative Committee to dispense with criminal investigation of his alleged ill-treatment.

On 20 August 2013 the same court dismissed the complaint about the reply of the prosecutor's office dated 17 May 2013.

On 1 November 2013 the Moscow City Court dismissed the applicants appeal and upheld the judgment of 16 August 2013.

On 11 November 2013 the Moscow City Court upheld the district court's judgment of 20 August 2013.

COMPLAINTS

The applicant complains under Articles 3 and 13 of the Convention that he has been ill-treated by the police during the dispersal of the rally on 6 May 2012 and that there has been no effective investigation following his complaint about it. He alleges that the police have used force without any connection with his conduct during the peaceful demonstration, implicitly referring to his right to freedom of assembly guaranteed by Article 11 of the Convention.

The applicant also complains, relying on Article 6 of the Convention, about the allegedly unfair proceedings in which the courts dismissed his complaints about the refusal to investigate the allegations of ill-treatment in criminal proceedings.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to ill-treatment during the dispersal of the demonstration on 6 May 2012, in breach of Article 3 of the Convention?

2. Having regard to the procedural protection from torture, inhuman or degrading treatment or punishment (see paragraph 131 of *Labita v. Italy* [GC], no. 26772/95, ECHR 2000-IV), was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention? The Government are requested to provide the details of the inquiry following the complaints by the applicant that he had been beaten by the police dispersing the demonstration.

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

4. Having regard to the applicant's allegation that the police had used force against him during the dispersal of the political rally, has there been an interference with the applicant's freedom of peaceful assembly, within the meaning of Article 11 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 11 § 2?