



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

FIRST SECTION

DECISION

Application no. 1633/07
Vladimir Vladimirovich LEBED
against Russia

The European Court of Human Rights (First Section), sitting on 23 September 2014 as a Committee composed of:

Khanlar Hajiyev, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and Søren Prebensen, Acting Deputy Section Registrar,

Having regard to the above application lodged on 30 November 2006,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases and the applicant's reply to the declaration,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Vladimir Vladimirovich Lebed, is a Ukrainian national, who was born in 1967 and lives in the Republic of Bashkortostan. He is represented before the Court by Mr U. Khamzin, a lawyer practising in Ufa.

2. The Russian Government were represented before the Court by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. From 2 July to 21 September 2004 the applicant was held in custody in the framework of extradition proceedings. His extradition was eventually refused.

4. By judgment of 29 March 2005, the Meleuz District Court of the Bashkortostan Republic held that the entire period of the applicant's detention had not been in accordance with the law. On 23 June 2005 the Supreme Court of the Bashkortostan Republic upheld that judgment.

5. The applicant sued the Ministry of Finance and the regional law-enforcement authorities for compensation in respect of non-pecuniary damage caused by his unlawful detention.

6. On 3 April 2006 the Meleuz District Court granted his claim in part and awarded him 200,000 Russian roubles (RUB) in respect of compensation for non-pecuniary damage (approximately 6,000 euros (EUR) at the official exchange rate).

7. Both the applicant and the Ministry of Finance appealed against the judgment. The applicant sought the full quantum of damages and the Ministry of Finance asked the court to reduce the award.

8. By judgment of 1 June 2006, the Supreme Court of the Bashkortostan Republic reduced the amount of compensation to RUB 10,000 (EUR 288 at the official exchange rate).

COMPLAINT

9. The applicant complained under Article 5 § 5 of the Convention about an insufficient amount of compensation for his unlawful detention.

THE LAW

10. On 17 April 2014 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the application. They acknowledged that there was a violation of Article 5 § 5 of the Convention in that the applicant had not obtained compensation for his unlawful detention from 4 June to 21 September 2004. They stated their readiness to pay the applicant a sum of EUR 7,212 as just satisfaction covering any pecuniary and non-pecuniary damage, as well as costs and expenses. The sum was payable free of any applicable taxes within three months of the date of notification of the decision taken by the Court under Article 37 § 1 of the Convention. In the event of failure to pay within that period, the Government undertook to pay simple interest on the sum from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The Government requested the Court to strike it out of the list of cases in accordance with Article 37 of the Convention.

11. By letter of 20 June 2014, the applicant rejected the Government's offer. He wished to obtain a judgment by the Court which would establish the facts of the case and would become a ground for a re-opening of the domestic proceedings.

12. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified under (a), (b) or (c) of paragraph 1 of that Article. In particular, Article 37 § 1 (c) enables the Court to strike a case out of its list if:

“...for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

13. It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

14. To this end, the Court will examine carefully the declarations in the light of the principles established in its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03).

15. The Court is satisfied that the Government did not dispute the allegations made by the applicant and explicitly acknowledged the violation of his right to compensation for unlawful detention. As to the intended redress to be provided to the applicant, the proposed sum is not unreasonable in comparison with the award made by the Court in a similar recent case (see *Abashev v. Russia*, no. 9096/09, § 47, 27 June 2013). The Government have committed themselves to effecting the payment of those sums within three months of the Court’s decision, with default interest to be payable in case of delay of settlement.

16. The Court therefore considers that it is no longer justified to continue the examination of the case. As the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of the above-cited *Abashev* judgment concerning the same Convention provision, the Court is also satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue the examination of the case. In any event, the Court’s decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the applications to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

17. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Søren Prebensen
Acting Deputy Registrar

Khanlar Hajiyev
President