



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

FIRST SECTION

DECISION

Application no. 8683/04
by Aleksandr Sergeyevich GAVRILOV and
Andrey Vladimirovich KUROV
against Russia

The European Court of Human Rights (First Section), sitting on 6 May 2008 as a Chamber composed of:

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Elisabeth Steiner,

Khanlar Hajiyev,

Dean Spielmann,

Sverre Erik Jebens, *judges*,

and Søren Nielsen, *Section Registrar*,

Having regard to the above application lodged on 27 February 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Aleksandr Sergeyevich GavriloV and Andrey Vladimirovich Kurov, are Russian nationals who were born in 1970 and 1969, respectively, and lived until their arrest in the town of Chelyabinsk. The Russian Government ("the Government") were initially represented by Mr P. Laptev, the former Representative of the Russian Federation at the

European Court of Human Rights, and subsequently by their Representative, Mrs V. Milinchuk.

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

In July 1998 the first applicant was brought to a police station and detained for approximately eight hours during which policemen allegedly threatened and intimidated him. He was released on the same day.

On 14 October 1998 the second applicant was arrested on suspicion of aggravated murder. He was allegedly severely beaten up for two days in a temporary detention ward.

On 27 October 1998 the first applicant was arrested on suspicion of concealment of an especially serious criminal offence.

The case was sent to the Chelyabinsk Regional Court for trial. On 27 December 2000 the Regional Court, composed of the presiding judge and two lay judges, found the first applicant guilty of having instigated robbery and murder and the second applicant of having committed and abetted in several aggravated murders and robberies, unlawful possession and theft of weapons, and participation in a criminal enterprise. The Regional Court sentenced the first applicant to ten years' imprisonment and the second applicant to life imprisonment.

The applicants appealed, challenging, *inter alia*, the composition of the bench. On 18 October 2002 the Supreme Court of the Russian Federation upheld the conviction.

On 7 April 2006 the first applicant was released on probation.

COMPLAINTS

The applicants complained under Articles 3, 5 § 1 (c), 6, 13 and 14 of the Convention that they had been severely beaten up and intimidated after their arrest, that their detention had been unlawful and extremely long, that they had not been tried by jury, that the trial court had not been a tribunal established by law; that the criminal proceedings had been excessively long and that the domestic courts had committed various violations of the domestic procedural law.

THE LAW

On 11 December 2006 the application was communicated to the respondent Government.

On 6 April 2007 the Government's observations on the admissibility and merits of the application were received. On 23 April 2007 the Court invited the applicants to submit their written observations in reply by 25 June 2007.

As the applicants' observations on the admissibility and merits had not been received by 25 June 2007, on 9 October 2007 the applicants were advised by registered mail that the failure to submit their observations might result in the strike-out of the application. As it follows from the advice of receipt which returned to the Court, the letter of 9 October 2007 reached the first applicant's home address on 23 October 2007. A postman noted on the advice of receipt that the letter had not been delivered because the first applicant had moved out and his new address was unknown. The second applicant received the Court's letter of 9 October 2007 on 23 October 2007.

No response has been received from the applicants to date.

The Court recalls Article 37 of the Convention which, in the relevant part, reads as follows:

"1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application;

...

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

The Court further recalls that, pursuant to Rule 47 § 6 of the Rules of Court, "applicants shall keep the Court informed of any change of address and of all circumstances relevant to the applicant". Under that Rule, it is incumbent on the applicant to provide at least a minimum of information, namely his postal address, enabling the Court to conduct correspondence with him and to proceed with his petition.

In the present case, the first applicant failed to inform the Court of the change of his postal address. Nor did he indicate any provisional address at which communication with him could be effected. Thus, the first applicant made it impossible for the Court to continue the examination of his case (cf. *Krutov v. Russia* (dec.), no. 25260/02, 5 January 2007 and *Babichev v. Russia* (dec.), no. 21777/03, 18 May 2006).

The Court further notes that the second applicant was requested to submit written observations on the admissibility and merits of the case. He was subsequently reminded thereof. The second applicant was also informed about a consequence of his failure to submit the observations. He has not replied to date.

The Court infers therefrom that the applicants do not intend to pursue their application. Furthermore, the Court considers that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the case.

In these circumstances it considers that Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list in accordance with Article 37 § 1 (a) of the Convention.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President