CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 67105/01
by Anatoliy Alekseyevich AGAFONOV
against Russia

The European Court of Human Rights (Fourth Section), sitting on 18 January 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr M. PELLONPÄÄ,
Mr R. MARUSTE,
Mr K. TRAJA,
Mr A. KOVLER,
Mr J. ŠIKUTA, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 9 February 2001,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Anatoliy Alekseyevich Agafonov, is a Russian national, who was born in 1968 and is currently detained in Yekaterinburg. He was represented before the Court by Mr D. A. Tiunov, a lawyer practising in Pervouralsk. The respondent Government were represented by Mr P. A. Laptev, the representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

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

On 24 April 1995 the Office of the Prosecutor of the Sverdlovsk Region ordered the applicant's detention on suspicion of having committed murder and participation in an armed gang. As the applicant had gone into hiding he was put on a list of persons wanted by the police.

On 25 June 1995 the applicant was apprehended by the Ukranian authorities in Kiev. Following his extradition to Russia on an unspecified date in 1995, he was charged with murder and participation in an armed gang, and placed in a remand prison in Yekaterinburg.

On six occasions from 1997 to 2000 the applicant's bill of indictment was prepared by the prosecution and transferred to court for trial. However, by decisions of 6 May 1997, 11 November 1998, 8 June 1999, 11 February 2000, 30 June 2000 and 26 December 2000 the Sverdlovsk Regional Court refused to commit the applicant for trial and remitted the case to the prosecution for additional investigation by reference to various procedural violations committed by the investigators.

The applicant's remand in custody pending trial was extended by decisions of relevant investigating and judicial authorities. The applicant's requests for his release were rejected by the Supreme Court of the Russian Federation.

On 28 August 2002 the Sverdlovsk Regional Court convicted the applicant of murder and sentenced him to eleven and a half years' imprisonment.

The applicant did not appeal against the judgment.

B. Events that took place after the case was communicated

On 31 March 2003 the Registrar sent a letter to the applicant, informing him that the Court had decided to give notice of his application to the Russian Government.

On 16 July 2003 the Government submitted their written observations on the admissibility and merits of the application. On 17 July 2003 the

applicant was invited to file his pleadings in reply by 18 September 2003. He did not reply.

On 19 March 2004 the Registry sent, by registered mail with acknowledgment of receipt, a letter to the addresses of the applicant's representative and the applicant himself. The applicant was warned that if he failed to respond to that letter, the Court might conclude that he no longer intended to pursue his application.

It emerges from relevant acknowledgments of receipt that the letters were delivered on 14 April 2004 and 13 April 2004 respectively.

The applicant has not to date resumed his correspondence with the Court, either directly or through his legal representative.

COMPLAINTS

Under Articles 5 and 6 of the Convention the applicant complained that the criminal proceedings against him and his pretrial detention were unlawful and excessively long.

THE LAW

The Court, having regard to the events that occurred after the notice of the application had been given to the Russian Government and after they had submitted their observations on the admissibility and merits of the case, considers that it does not have to examine the present application and that Article 37 § 1 of the Convention should be applied. That provision, in its relevant part, reads:

> "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."

In this respect the Court notes that the applicant did not submit any reply to the observations submitted by the respondent Government on 16 July 2003. He has also failed to respond to a further communication from the Registry of the Court, which was a registered letter dated 19 March 2004 warning him that his application might be struck out of the list if he failed to respond.

In the circumstances, the Court concludes that the applicant does not intend to pursue the application and that it is no longer justified to continue

the examination of the case. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, that would require it to continue the proceedings by virtue of that provision.

For these reasons, the Court unanimously

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

Michael O'BOYLE
Registrar

Nicolas BRATZA
President