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

FIRST SECTION

DECISION

Application no. 53478/07
Sergey Viktorovich BOYKIN
against Russia

The European Court of Human Rights (First Section), sitting on 26 August 2014 as a Committee composed of:

Khanlar Hajiyev, *President,*
Julia Laffranque,
Dmitry Dedov, *judges,*

and Søren C. Prebensen, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 15 October 2007,

Having regard to the comments submitted by the respondent Government and the comments in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sergey Viktorovich Boykin, is a Russian national, who was born in 1968 and lived in Dankov in the Lipetsk Region before his arrest.

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

3. During several periods between 28 October 2005 and 15 February 2006 the applicant was held in IVS of Dankovskiy District, a temporary detention facility located in the Lipetsk Region. According to the applicant, the cells where he stayed were overcrowded and in a poor sanitary condition.

4. The applicant brought a civil claim for compensation in connection with inadequate conditions of detention in IVS of Dankovskiy District. By final judgment of 11 July 2007, the Lipetsk Regional Court granted the claim and awarded the applicant 2,300 Russian roubles.

COMPLAINT

5. The applicant complained under Article 3 of the Convention about the conditions of his detention in the police ward of Dankovskiy District.

THE LAW

6. Having regard to the fact that the period of the applicant's detention in the police ward had ended more than six months before his application was lodged with the Court, the Court must determine whether the applicant complied with the six-month requirement imposed by Article 35 of the Convention.

7. The Government submitted that the applicant's situation was identical to the one examined by the Court in case of *Norkin v. Russia* ((dec.), no. 21056/11, 5 February 2013). Namely, in the absence of an effective remedy in the Russian legal system for the complaints relating to inadequate conditions of detention (see, among many other authorities, *Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI), the applicant should have lodged his application within six months of the end of the situation he complained about, that is, the period of his detention in the police ward. The Court's respective case-law was accessible to the applicant and he should have been aware of its existence. Accordingly, the complaint should be rejected as belated.

8. The applicant did not submit any specific comments.

9. The Court recalls its constant position that given the present state of Russian law, a civil action for compensation for inadequate conditions of detention has not been considered an effective remedy (see, most recently, *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 113-118, 10 January 2012, with further references). The Court's case-law on the absence of an effective remedy for complaints concerning inadequate conditions of detention being sufficiently established, the applicant had at his disposal a period of six months following his departure from the remand prison, during which he should have ascertained the conditions on the admissibility of an application to the Court and, if necessary, obtained appropriate legal advice. However, he did not submit his application within that time period.

10. The Court has examined a similar situation and reached the conclusion that the complaint about the inadequate conditions of detention should have been introduced within six months of the day following the applicant's transfer out of the detention facility (see *Norkin v. Russia* (dec.), cited above). There are no arguments or factual information in the present case that would warrant a departure from the Court's findings in that

decision. The applicant should have been aware of the ineffectiveness of the judicial avenue he had made use of, before he lodged his application with the Court. The final disposal of his claims for compensation by the domestic courts cannot be relied upon as starting a fresh time-limit for his complaints.

11. It follows that the application is inadmissible for non-compliance with the six-month rule set out in Article 35 § 1 of the Convention, and must be rejected pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Søren C. Prebensen
Acting Deputy Registrar

Khanlar Hajiyev
President