

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

THIRD SECTION

CASE OF SIROTA v. RUSSIA

(Application no. 31751/14)

JUDGMENT

STRASBOURG

27 October 2022

This judgment is final but it may be subject to editorial revision.



In the case of Sirota v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Darian Pavli*, President,*
Andreas Zünd*,*
Frédéric Krenc*, judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 6 October 2022,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 2 April 2014.

2. The Russian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. The applicant complained that he had been unfairly convicted of drug offences following entrapment by State agents.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

5. The applicant complained that he had been unfairly convicted of drug offences which he had been incited by State agents to commit and that his plea of entrapment had not been properly examined in the domestic proceedings. He relied on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

"In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

6. The Court reiterates that absence in the national legal system of a clear and foreseeable procedure for authorising test purchases of drugs remains a structural problem which exposes applicants to an arbitrary action by the State agents and prevents the domestic courts from conducting an effective judicial review of his entrapment pleas (see *Veselov and Others v. Russia*, nos. 23200/10 and 2 others, § 126, 2 October 2012).

7. The Court has consistently found a violation of Article 6 § 1 of the Convention on account of the deficient existing procedure for authorisation and administration of test purchases of drugs in the respondent State, an issue similar to that in the present case (see *Veselov and Others*, cited above, §§ 126-28; *Lagutin and Others v. Russia*, nos. 6228/09 and 4 others, §§ 124-25, 24 April 2014; *Lebedev and Others v. Russia*, nos. 2500/07 and 4 others, §§ 12-16, 30 April 2015; and *Yeremtsov and Others v. Russia*, nos. 20696/06 and 4 others, §§ 17-21, 27 November 2014).

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion as to the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the criminal proceedings against the applicant were incompatible with a notion of a fair trial.

9. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

11. Regard being had to the documents in its possession and to its case-law (see, in particular, *Kumitskiy and Others v. Russia,* nos. 66215/12 and 4 others, § 17, 10 July 2018), the Court considers that the finding of a violation constitutes a sufficient just satisfaction in the present case.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the entrapment by State agents to commit a criminal offence of which the applicant was convicted;

3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction.

Done in English, and notified in writing on 27 October 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (entrapment by State agents)

Application no. Date of introduction	Applicant's name Year of birth	Test purchase date Type of drugs	Specific grievances	Final domestic judgment (appeal court, date)
31751/14 02/04/2014	**Aleksandr Aleksandrovich SIROTA** 1985	28/07/2011 Marijuana	fellow drug user, lack of incriminating information	Presidium of the Krasnodar Regional Court, 10/12/2014