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

THIRD SECTION

DECISION

Application no. 23435/12
Stanislav Yevgenyevich DERKACHEV
against Russia

The European Court of Human Rights (Third Section), sitting on 7 December 2021 as a Committee composed of:

Peeter Roosma, *President,*
Dmitry Dedov,
Andreas Zünd, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 23435/12) against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 11 April 2012 by a Russian national, Mr Stanislav Yevgenyevich Derkachev, who was born in 1970 and lives in Moscow ("the applicant") who was represented by Ms R.F. Gayazova, a lawyer practising in Kazan;

the decision to give notice of the complaints concerning the applicant's alleged ill-treatment by public officials to the Russian Government ("the Government"), initially represented by Mr M. Galperin, former Representative of Russia to the European Court of Human Rights, and lately by his successor in that office, Mr M. Vinogradov, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT-MATTER OF THE CASE

1. The case concerns allegations of the applicant's ill-treatment in breach of Article 3. In 2011 a group of bailiffs arrived at the applicant's father's plot of land within the framework of enforcement proceedings. As the applicant and his father had attempted to prevent them entering the plot, the bailiffs used physical force. On the same day a medical examination of the applicant

established minor injuries and he lodged a criminal complaint about the events. On 2 September 2011 the complaint was refused. The applicant did not seek judicial review of the refusal. His subsequent civil action for compensation for non-pecuniary damage was rejected as unfounded; the final domestic decision in that regard was delivered on 22 March 2012.

2. The applicant complained under Articles 3 and 13 of the Convention that he had been subjected to ill-treatment and that no effective investigation into his complaint had been carried out.

THE COURT'S ASSESSMENT

3. The applicant did not challenge the refusal to open criminal proceedings into his complaint before the domestic courts. However, that possibility constitutes an effective remedy available in the Russian legal system in respect of such complaints (see *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003, and *Belevitskiy v. Russia*, no. 72967/01, §§ 54-67, 1 March 2007). If the applicant considered that the judicial remedy was ineffective, he should have applied to the Court within six months of that decision (see, *mutatis mutandis*, *Dzhamaldayev v. Russia* (dec.), no. 39768/06, § 28-29, 22 January 2013). Yet, he lodged his application on 11 April 2012, that is outside of the six-months' period.

4. In the absence of a prior finding that the bailiffs acted unlawfully, the applicant's civil action for damages could not be regarded as an effective remedy (see *Denis Vasilyev v. Russia*, no. 32704/04, § 136, 17 December 2009, and *Gorbatenko v. Russia* (dec.), no. 40521/06, § 42, 14 January 2014). Thus, it did not warrant the interruption of the six-month period.

5. In the view of the foregoing, the applicant's complaints under Articles 3 and 13 of the Convention must be rejected for the failure to comply with the six-month time-limit within the meaning of Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 January 2022.

Olga Chernishova Deputy Registrar	Peeter Roosma President