

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

THIRD SECTION

DECISION

Application no. 22118/10
Andrey Aleksandrovich DROBODKO against Russia
and five other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 2 February 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above applications lodged on the dates listed in the Appendix,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

A list of the applicants and their representatives is set out in the Appendix.

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

The applicants complained about a violation of their right to compensation for unlawful detention. They relied on Article 5 § 5 of the Convention.

The applications had been communicated to the Government.

THE LAW

Having regard to the similarity of the issue under the Convention in the above cases, the Court decides to join the applications and consider them in a single decision.

After the failure of attempts to reach a friendly settlement, on 8 September 2015 the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by the applications.

By the above declarations, the Russian authorities acknowledged that there was a violation of Article 5 § 5 of the Convention in that the applicants had not obtained compensation for their unlawful detention and stated their readiness to pay the following amounts to the applicants as just satisfaction covering any pecuniary and non-pecuniary damage, as well as costs and expenses: 4,655 euros (EUR) to Mr Drobodko, EUR 4,752 to Mr A. Fedotov, EUR 4,930 to Mr Kuchevskiy, EUR 4,740 to Mr S. Fedotov, EUR 5,000 to Mr Rekhtin, and EUR 5,000 to Mr Mushchinskiy. The sums were payable free of any applicable taxes within three months of the date of notification of the decision taken by the Court under Article 37 § 1 of the Convention. In the event of failure to pay within that period, the Government undertook to pay simple interest on the sum from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The Government requested the Court to strike the applications out of the list of cases in accordance with Article 37 of the Convention.

The applicants did not reply within the established time-limit.

The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. In particular, Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "...for any other reason established by the Court, it is no longer justified to continue the examination of the applications."

It also reiterates that in certain circumstances, it may strike out an applications under Article 37 § 1 (c) of the Convention on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued.

To this end, the Court has examined the declarations carefully in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02,

26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

The Court has found a violation of Article 5 § 5 of the Convention in a number of cases against Russia, in which it established that the Russian law, in its current state, did not provide the applicants with an enforceable right to compensation for the detention effected in contravention of provisions of Article 5 (see *Abashev v. Russia*, no. 9096/09, 27 June 2013, which concerned compensation for a period of unlawful detention in breach of Article 5 § 1; *Korshunov v. Russia*, no. 38971/06, 25 October 2007, which concerned compensation for an excessively long detention in breach of Article 5 § 3, and *Makhmudov v. Russia*, no. 35082/04, 26 July 2007, which concerned a refusal of compensation for unlawful detention in the administrative proceedings).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases (see, for example, *Abashev*, cited above, § 47) – the Court considers that it is no longer justified to continue the examination of the applications. As the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of the judgments concerning the same issues, the Court is also satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue the proceedings. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the applications to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

In view of the above, it is appropriate to strike the cases out of the list.

For these reasons, the Court unanimously

Decides to join the applications,

Takes note of the terms of the respondent Government's declaration under Article 5 § 5 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 3 March 2016.

Marialena Tsirli Deputy Registrar	Helena Jäderblom President

APPENDIX

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	22118/10	29/03/2010	**Andrey Aleksandrovich DROBODKO** 02/08/1978 Nizhniy Novgorod	
2.	13080/12	09/02/2012	**Aleksandr Mikhaylovich FEDOTOV** 13/07/1961 Ufa	
3.	47020/12	06/07/2012	**Aleksandr Alekseyevich KUCHEVSKIY** 05/08/1976 Kokhma	Olga Vladimirovna DRUZHKOVA
4.	57780/12	14/08/2012	**Sergey Vladimirovich FEDOTOV** 26/04/1983 Abakan	
5.	61151/13	10/06/2013	**Nikolay Nikolayevich REKHTIN** 25/03/1984 Novosibirsk	
6.	25799/14	24/04/2014	**Aleksandr Aleksandrovich MUSHCHINSKIY** 04/08/1972 Kirovo-Chepetsk	