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

FOURTH SECTION

DECISION

Application no. 64260/09
Kakhaber DVALI
against Georgia

The European Court of Human Rights (Fourth Section), sitting on 6 December 2016 as a Committee composed of:

Krzysztof Wojtyczek, *President,*
Nona Tsotsoria,
Marko Bošnjak, *judges,*
and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 30 November 2009,

Having regard to the declaration submitted by the respondent Government on 14 September 2016 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Kakhaber Dvali, is a Georgian national, who was born in 1973 and is detained in Rustavi prison no. 6. He was represented before the Court by Mr V. Talakvadze, a lawyer practising in Tbilisi.

2. The Georgian Government ("the Government") were successively represented by their Agents, Mr L. Meskhoradze and Mr B. Dzamashvili, of the Ministry of Justice.

3. The case concerned the alleged lack of medical care for the applicant's viral hepatitis C in prison. It was communicated to the Government on 11 January 2010 under Article 3 of the Convention.

4. On 6 May 2010 the Government submitted observations which contained a full copy of the applicant's medical file. It appeared from the medical documents that the prison authority had started dispensing the

relevant anti-viral and hepatoprotective treatment to the applicant. Subsequently, in 2011 and 2012, the Government supplemented the case file with additional medical opinions which accounted for the outcome of the administered treatment. Notably, as was confirmed by the results of the relevant laboratory tests, the viral activity in the applicant's organism had significantly dropped, a fact which was qualified by medical specialists as a success.

5. After unsuccessful friendly-settlement negotiations, by a letter dated 14 September 2016 the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application.

6. Thus, the Government acknowledged a violation of the applicant's rights guaranteed by Article 3 of the Convention and, having regard to the fact that the treatment of the applicant's hepatitis C in prison had been successful, offered to pay him EUR 2,500 (two thousand and five hundred euros) to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which will be converted into the national currency of the respondent State at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from 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. They further requested the Court to strike out the application.

7. On 4 October 2016 the Court received a letter from the applicant informing the Court that he had agreed to the terms of the Government's declaration.

THE LAW

8. The Court finds that following the applicant's express agreement to the terms of the declaration made by the Government the case should be treated as a friendly settlement between the parties.

9. It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application.

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

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases pursuant to Article 39 of the Convention.

Done in English and notified in writing on 12 January 2017.

Andrea Tamietti
Deputy Registrar

Krzysztof Wojtyczek
President