

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

FIRST SECTION

DECISION

Application no. 48790/07
Khabil Gasraddin Ogly MAMEDOV against Russia
and 4 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 27 May 2014 as a Committee composed of:

Khanlar Hajiyev, *President,*
Erik Møse,
Dmitry Dedov, *judges,*

and André Wampach, *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 and the applicants' reaction to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. A list of the applicants is set out in the appendix.

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. The applicants complained that their detention on remand had been unreasonably long and that it had not been based on relevant or sufficient reasons.

4. On 30 August 2013 the applicant's complaints were communicated to the Government for observations.

5. By letters of 1 November 2013 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving

the issue raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

6. In that declaration, the Government acknowledged that all the applicants had been detained without "relevant and sufficient" grounds on the basis of decisions rendered by Russian courts which had not complied with the requirements of Article 5 § 3 of the Convention and stated their readiness to pay the following amounts to the applicants as just satisfaction:

(a) 2,880 euros (EUR) to Mr MAMEDOV for his detention on remand "during 1 year, 5 months and 8 days from 22 June 2006";

(b) EUR 2,640 to Mr ANIKEYCHIK for his detention on remand "during 1 year, 3 months and 15 days from 11 September 2006";

(c) EUR 5,200 to Mr KOZADAYEV for his detention on remand "during 3 years, 2 months and 14 days from 15 September 2006";

(d) EUR 1,800 to Mr LATONIN for his detention on remand "during 10 months and 4 days from 27 April 2011"; and

(e) EUR 6,000 to Mr MALYSHIKHIN for his detention on remand "during 4 years".

7. The remainder of their declarations provided as follows:

> "The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, 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 pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake 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.
>
> This payment will constitute the final resolution of the case."

8. The applicants were invited to comment on the Government's unilateral declarations, if they so wished. They submitted no comments in reply.

THE LAW

9. Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and examine them in a single decision.

10. 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 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 application".

11. It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government.

12. To this end, the Court will examine carefully the declaration in the light of the principles established in 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).

13. The Court notes at the outset that since its first judgment concerning the lengthy detention on remand in Russia (see *Kalashnikov v. Russia*, no. 47095/99, §§ 104-121 ECHR 2002-VI), it has found a violation of Article 5 § 3 of the Convention on account of excessively lengthy detention on remand without proper justification in more than eighty cases against Russia (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 200, 10 January 2012). It follows that the complaints raised in the present applications are based on the clear and extensive case-law of the Court.

14. Turning next to the nature of the admissions contained in the Government's declarations, the Court is satisfied that the Government did not dispute the allegations made by the applicants and explicitly acknowledged that their detention on remand had been in breach of Article 5 § 3 of the Convention.

15. As to the intended redress to be provided to the applicants, the Government have undertaken to pay them certain amounts of compensation in respect of pecuniary and non-pecuniary damages, as well as costs and expenses. The Government have committed themselves to effecting the payment of those sums within three months of the Court's decision, with default interest to be payable in case of delay of settlement.

16. The Court is satisfied that the amounts of compensation proposed are consistent with the amounts awarded in similar Russian cases (see *Valeriy Kovalenko v. Russia*, no. 41716/08, 29 May 2012; and *Kislitsa v. Russia*, no. 29985/05, 19 June 2012).

17. The Court therefore considers that it is no longer justified to continue the examination of these cases. 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 examination of the case. 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

Aleksentseva and 28 Others v. Russia (dec.), nos. 75025/01 et al., 23 March 2006 and *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

18. In view of the above, it is appropriate to strike the cases out of the list in accordance with Article 37 § 1 (c) of the Convention.

For these reasons, the Court unanimously

Decides to join the applications,

Takes note of the terms of the Government's declarations concerning the applicants' complaints under Article 5 § 3 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.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
1.	48790/07	20/09/2007	**Khabil Gasraddin Ogly MAMEDOV** 05/09/1975 Nadvoitsy Azerbaijani	Oleg Vitalyevich NESKOROMNYY
2.	6034/08	04/12/2007	**Andrey Igoryevich ANIKEYCHIK** 04/08/1987 Norilsk Russian	
3.	36826/09	28/05/2009	**Aleksey Aleksandrovich KOZADAYEV** 24/10/1980 Omsk Russian	
4.	3499/12	17/12/2011	**Yevgeniy Vsevolodovich LATONIN** 27/04/1959 Yaroslavl Russian	Sergey Yuryevich UVAROV
5.	5031/12	08/12/2011	**Dmitriy Stanislavovich MALYSHIKHIN** 24/03/1983 Ufa Russian	