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

FOURTH SECTION

DECISION

Application no. 16716/10
Davit NIKOLASHVILI
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 12 March 2010,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr David Nikolashvili, is a Bulgarian national, who was born in 1971 and lives in Varna. He was represented before the Court by Ms S. Abuladze, a lawyer practising in Tbilisi.

2. The Georgian Government ("the Government") were represented by their Agents, Mr L. Meskhoradze and Mr B. Dzamashvili, of the Ministry of Justice. The Bulgarian Government did not make use of their right to intervene under Article 36 of the Convention.

3. The case mainly concerned alleged poor material conditions of the applicant's detention as well as the lack of medical care for his viral hepatitis C in Kutaisi prison no. 2. The applicant had been serving a life sentence in that custodial institution as of 15 December 2008, the date of his conviction by the Kutaisi City Court for complicity to commit trafficking of narcotic substances in particularly large quantities.

4. On 5 July 2010 the application was communicated to the Government under Article 3 of the Convention. On 28 October 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 hepatitis C viral activity in the applicant's organism had significantly dropped.

5. On 28 August 2013 the applicant was granted an early release by a Presidential pardon.

6. On 8 September and 10 October 2016 the Court received declarations signed by both parties, whereby the applicant agreed to have his application struck out of the Court's list of cases against an undertaking by the Government to pay him EUR 4,000 (four thousand euros) to cover any pecuniary and non-pecuniary damage as well as costs and expenses. This amount will be converted into the respondent State's national currency at the rate applicable on the date of payment and be free of any taxes that might be applicable to the applicant. 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 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 payment will constitute the final resolution of the case.

THE LAW

7. In the light of the above, the Court considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the application under Article 37 § 1 *in fine*.

8. Accordingly, the case should be struck out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

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

Andrea Tamietti
Deputy Registrar

Krzysztof Wojtyczek
President