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

THIRD SECTION

DECISION

Application no. 18452/18
Maksim Valeryevich PISMARKIN
against Russia
(see appended table)

The European Court of Human Rights (Third Section), sitting on 6 October 2022 as a Committee composed of:

Darian Pavli*, President,*
Andreas Zünd*,*
Frédéric Krenc*, judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 13 April 2018,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr A. Golubenko, a lawyer admitted to practise in Russia.

The applicant's complaints under Article 6 § 1 of the Convention concerning the entrapment by State agents were communicated to the Russian Government ("the Government").

THE LAW

The applicant complained that he had been unfairly convicted of a drug related criminal offence incited by the police. The complaint falls to be examined under Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

The Court has emphasised, in a number of cases, the role of domestic courts in dealing with criminal cases where the accused alleges that he was incited to commit an offence. Any arguable plea of incitement places the courts under an obligation to examine it and make conclusive findings on the issue of entrapment, with the burden of proof on the prosecution to demonstrate that there was no incitement (see *Ramanauskas v. Lithuania* [GC], no. 74420/01, §§ 70-71, ECHR 2008, and *Khudobin v. Russia*, no. 59696/00, §§ 133-35, ECHR 2006-XII (extracts)).

The Court notes that the applicant's plea of incitement was adequately addressed by the Russian courts, which took the necessary steps to uncover the truth and to eradicate the doubts as to whether the applicant had committed the offence as a result of incitement by an agent provocateur. Their conclusion that there had been no entrapment was based on a reasonable assessment of evidence that was relevant and sufficient. The Russian courts took all possible steps to verify each version to be certain that the acts imputed to the applicant did not result from unlawful actions on the part of investigative authorities (compare *Bannikova v. Russia*, no. 18757/06, §§ 33-79, 4 November 2010).

Having regard to the scope of the judicial review of the applicant's plea of incitement, the Court finds that the complaint is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 27 October 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (entrapment by State agents)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Test purchase date Type of drugs	Final domestic judgment (appeal court, date)
18452/18 13/04/2018	**Maksim Valeryevich PISMARKIN** 1996	Andrey Yevgenyevich Golubenko Nea Skiony; Greece	28/11/2017 cannabis	28/11/2017 St Petersburg City Court