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

THIRD SECTION

DECISION

Application no. 29998/04
Vladimir Aleksandrovich PRIGARIN
against Russia

The European Court of Human Rights (Third Section), sitting on 24 May 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*

and Stephen Phillips, *Section Registrar,*

Having regard to the above application lodged on 20 June 2004,

Having regard to the declaration submitted by the respondent Government on 5 October 2015 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

The applicant, Mr Vladimir Aleksandrovich Prigarin, is a Russian national, who was born in 1966 and lives in Novonikolskoye, Volgograd Region. He was represented by Ms M. Misakyan and Mr T. Misakyan, lawyers with the Centre of Assistance to International Protection, an NGO based in Moscow.

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

The applicant complained under Article 5 § 3 of the Convention about the length of his pre-trial detention and under Article 6 § 1 of the Convention about the length of criminal proceedings against him.

The application had been communicated to the Government.

By letter dated 5 October 2015 the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application. They acknowledged that there was a violation of Articles 5 § 3 and 6 § 1 of the Convention on an excessive length of his pre-trial detention and the criminal proceedings against him. They stated their readiness to pay the applicant a sum of 4,550 euros (EUR) to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which will be converted into local currency at the rate applicable on the date of payment. The sum was payable free of any applicable taxes 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.

By letter of 24 November 2015, the applicant rejected the Government's offer. He expressed the view that the sum mentioned in the Government's declaration was insufficient.

THE LAW

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. 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 application".

It also reiterates 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 even if the applicant wishes the examination of the case to be continued.

To this end, the Court has examined the declaration carefully in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey (preliminary objections)* [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 established in a number of cases, including those brought against Russia, its practice concerning complaints about the excessive length of pre-trial detention and a violation of one's right to a hearing within a reasonable time (see, for example, *Frydlender v. France* [GC],

no. 30979/96, § 43, ECHR 2000-VII, and *Dirdizov v. Russia*, no. 41461/10, § 108, 27 November 2012).

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 – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

The Court considers that this amount should be converted into Russian roubles at the rate applicable at the date of payment, and paid within three months from the date of notification of the Court's decision issued in accordance with Article 37 § 1 of the European Convention on Human Rights. In the event of failure to settle within this period, simple interest shall be payable on the amount in question at a rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (see *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23March 2006; and *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Articles 5 § 3 and 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

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

Done in English and notified in writing on 16 June 2016.

Stephen Phillips
Registrar

Helena Jäderblom
President