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

THIRD SECTION

DECISION

Application no. 76685/17
Yuriy Vladimirovich RUDAK
against Russia
(see appended table)

The European Court of Human Rights (Third Section), sitting on 10 November 2022 as a Committee composed of:

Darian Pavli*, President*,
Ioannis Ktistakis,
Andreas Zünd*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 15 August 2017,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicant's complaints under Article 3 of the Convention concerning allegations of torture or inhuman or degrading treatment were communicated to the Russian Government ("the Government"). Complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

A. Complaints under Article 3 of the Convention (torture or inhuman or degrading treatment)

Although the Government did not raise an objection concerning the applicant's compliance with the six-month rule, the Court decides to raise it of its own motion (see *Blokhin v. Russia* [GC], no. 47152/06, § 102, 23 March 2016).

The applicant complained about his alleged ill-treatment to the authorities shortly thereafter, on 31 March 2010. Then, for more than five years, the authorities consistently refused to open a criminal case and those refusals were not contested by the applicant. Only the refusal issued on 25 October 2015 was contested by him and then he lodged his application with the Court within six months following the final court decision in those proceedings.

The Court reiterates that the duty of diligence requires an applicant not only to apply promptly to domestic authorities, but also to undertake elementary steps and seek information about the investigation's progress or the lack thereof, as well as to lodge an application with the Court as soon as he or she realises, or ought to have realised, that the investigation is not effective (see *Raush v. Russia* (dec.), no. 17767/06, §§ 56-67, 22 March 2016). The Court has considered whether there has been meaningful contact with the authorities or some indication, or realistic possibility, of progress in investigative measures (compare *Şakir Kaçmaz v. Turkey*, no. 8077/08, §§ 72-75, 10 November 2015 and *Vatandaş v. Turkey*, no. 37869/08, § 26, 15 May 2018).

In the present case, the Court observes that more than seven years passed between the alleged ill-treatment and the lodging of the application. Keeping in mind the authorities' consistent refusals to investigate such a serious matter, the Court concludes that the applicant should have realised long before 15 August 2017 that his efforts to induce the authorities to open a fully-fledged criminal investigation into his alleged ill-treatment were futile. There is nothing in the case file to suggest to the contrary. Furthermore, considering the lack of a plausible explanation by the applicant for his delay in initiating the proceedings before the Court, the Court finds that his complaint was lodged out of time (compare *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 275, ECHR 2014 (extracts) and, for a similar situation, *Khashagulgovy v. Russia* [Committee] (dec.) no. 73006/17, § 4, 31 May 2022).

The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint does not meet the admissibility criteria set out in Article 35 of the Convention.

B. Remaining complaints

The applicant also raised complaints under Articles 5, 6 and 13 of the Convention. The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 December 2022.

Viktoriya Maradudina Acting Deputy Registrar	Darian Pavli President

APPENDIX

Application raising complaints under Article 3 of the Convention (torture or inhuman or degrading treatment)

Application no. Date of introduction	Applicant's name Year of birth	Factual information relating to arrest	Medical evidence of ill-treatment	Date of first complaint Decision issued in response to complaint of ill-treatment	Decision under Article 125 of the CCrP Appeal decision	Information relating to conviction
76685/17 15/08/2017	**Yuriy Vladimirovich RUDAK** 1961	28/03/2010 (around 1.10 p.m.) Samara, Samara Region / Police officers of police department No. 10 in Samara	Medical certificate No. 533 of 31/03/2010 from the therapeutic and correctional institution No. 12 in the Kirov Region (*ЛИУ-12*): several injuries to the face and head. Act of the medical assistant on duty in remand prison IZ-63/1: abrasion on the left eye, violet-coloured hypodermic hematoma	First complaint to the investigation committee: on 31/03/2010; then several refusals to open a criminal case: the first refusal on 09/04/2010, the last one on 25/10/2015	26/08/2016 Kirovskiy District Court in Samara / 17/02/2017 Samara Regional Court 29/03/2017 Kirovskiy District Court in Samara / 22/05/2017 Samara Regional Court	31/05/2011, Kirovskiy District Court in Samara convicted the applicant of murder and sentenced him to 11 years and 6 months of imprisonment. The sentence was upheld by Samara Regional Court on 07/09/2011