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

THIRD SECTION

DECISION

Application no. 11362/07
Andrey Ananyevich SKRIPIY
against Russia

The European Court of Human Rights (Third Section), sitting on 28 June 2016 as a Committee composed of:

Helen Keller, *President,*
Johannes Silvis,
Alena Poláčková, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 28 February 2007,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Andrey Ananyevich Skripiy, is a Russian national, who was born in 1967 and lives in Ufa. He was represented before the Court by Ms E. Krutikova, a lawyer practising in Moscow.

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

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. In 2004-2009 the criminal proceedings against the applicant took place; he was suspected of murder. In the course of the proceedings the applicant was detained in pre-trial detention facilities and released on multiple occasions.

5. The applicant, who was diagnosed with a personality disorder, underwent five expert examinations aimed at determining his mental health

status at various points of time. In the relevant periods the applicant was placed to psychiatric facilities at least four times for the purposes of psychiatric evaluations and treatment of acute mental conditions.

6. On 6 November 2009 the applicant was acquitted; he was informed of his right to claim compensation for unlawful prosecution.

7. On 20 August 2010 the Supreme Court of Bashkortostan Republic (*Верховный Суд Республики Башкортостан*) awarded the applicant EUR 21,453 in respect of pecuniary damage cause by unlawful prosecution.

8. On 24 May 2011 the Leninskiy District Court of Ufa (*Ленинский районный суд г. Уфа*) examined in detail the duration and progress of the criminal proceedings against the applicant, his detention in pre-trial and psychiatric facilities. The District Court awarded the applicant 6,280 euros (EUR) in respect of non-pecuniary damage cause by "unlawful criminal prosecution as well as ... unlawful detention in a pre-trial detention facility and unlawful detention in a psychiatric facility".

COMPLAINTS

9. The applicant complained under Article 5 §§ 1 and 4 and Article 6 § 1 of the Convention that he was unlawfully detained, that the periods of appeal review of his detention were excessively long and that the proceedings in his case were unreasonably long. He also submitted other complaints under Articles 3, 5, and 6 of the Convention.

THE LAW

10. The Government stated in their submissions that given acknowledgment of the violations of the applicant's rights by the domestic courts and the awards in respect of pecuniary and non-pecuniary damage he may no longer claim to be a victim within the meaning of Article 34 of the Convention.

11. The applicant's representative submitted that the violations of the applicant's rights were neither clearly acknowledged, not sufficiently redressed having regard to the amounts awarded.

12. The Court reiterates that it falls first to the national authorities to redress any alleged violation of the Convention. In this regard, the question whether an applicant can claim to be a victim of the violation alleged is relevant at all stages of the proceedings under the Convention (see *Burdov v. Russia*, no. 59498/00, § 30, ECHR 2002-III).

13. The Court also reiterates that a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a

"victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see, for example, *Eckle v. Germany*, 15 July 1982, §§ 69 et seq., Series A no. 51; *Amuur v. France*, 25 June 1996, § 36, *Reports of Judgments and Decisions* 1996-III; and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

14. The Court notes that the first point of divergence between the parties was whether the violation of the applicant's rights under Articles 5 and 6 of the Convention had been acknowledged by the domestic authorities. Neither the Convention, nor the Court's case-law set out specific mandatory criteria to be fulfilled by an acknowledgment of a violation on the national level. As it is clear from the principles stated above it is sufficient for the acknowledgment to be made "either expressly or in substance". In the present case the national courts unequivocally and clearly stated that the applicant was awarded compensation for "unlawful criminal prosecution as well as ... unlawful detention in pre-trial detention facility and unlawful detention in psychiatric facility". The Court is satisfied that these acknowledgements of violations, despite being brief and lacking any extensive reasoning, comply with the Convention standard.

15. The Court had previously stated that if one or more heads of damage cannot be calculated precisely or if the distinction between pecuniary and non-pecuniary damage proves difficult, the Court may decide to make a global assessment (see *Comingersoll S.A. v. Portugal* [GC], no. 35382/97, § 29, ECHR 2000-IV). In the present case the applicant was awarded EUR 21,453 in respect of pecuniary damage and EUR 6,280 in respect of non-pecuniary damage, thus being awarded EUR 27,733 in total for his unlawful prosecution and unlawful detention in pre-trial and psychiatric facilities. Having regard to the individual circumstances of the case, the amount of awards on the national level, as well as the Convention practice in similar cases, the Court concludes that the applicant was provided sufficient redress for violations of his rights.

16. The Court concludes that the violations of the applicant's rights were acknowledged by the national authorities and sufficiently redressed. Therefore he may no longer claim to be a "victim" within the meaning of Article 34 of the Convention. Furthermore, having regard to Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the cases.

17. Accordingly, the Court decides to strike the application out of the list of cases in part concerning the applicant's unlawful detention in pre-trial and psychiatric facilities and the length of criminal proceedings against him.

18. The applicant further lodged various complaints under Articles 3, 5, and 6 of the Convention. Having regard to all the materials in its possession

the Court concludes that they are inadmissible and must be rejected in accordance with Article 35 §§ 1, 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases in part concerning the applicant's unlawful detention in pre-trial and psychiatric facilities and the length of criminal proceedings against him.

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 21 July 2016.

Fatoş Aracı
Deputy Registrar

Helen Keller
President