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

# THIRD SECTION

# DECISION

Application no. 46205/15
Sergey Vyacheslavovich YELISEYEV
against Russia

The European Court of Human Rights (Third Section), sitting on 5 December 2024 as a Committee composed of:

Diana Kovatcheva*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 2 September 2015,

Having deliberated, decides as follows:

## FACTS AND PROCEDURE

The applicant, Mr Sergey Vyacheslavovich Yeliseyev, was born in 1964. He was represented by Mr S. Khomenko, a lawyer practising in Taganrog.

The applicant's complaints under Article 6 §§ 1 and 3 (d) of the Convention concerning the unfair trial in view of restrictions on the right to examine witnesses were communicated to the Russian Government ("the Government"), which submitted observations on the admissibility and merits.

In their observations of 21 June 2018, the Government indicated that on 30 November 2017 the Presidium of the Rostov Regional Court, acting as a supervisory instance, quashed the judgment of 4 March 2015 and remitted the criminal case against the applicant for a new trial before the first-instance court. They asserted that the applicant could no longer claim to be a victim of the alleged violation of Article 6 of the Convention and that the complaint should be rejected pursuant to Articles 34 and 35 §§ 3 and 4 of the Convention.

In his observations in reply of 20 August 2018, the applicant stated that the quashing of 30 November 2017 did not constitute sufficient redress for the alleged violation of Article 6 §§ 1 and 3 (d) of the Convention in so far as (i) the Presidium had not expressly recognised him as a victim of the alleged violation, and (ii) the quashing did not take place on the initiative of the

authorities but followed his own supervisory review request. It appears from the documents submitted by the applicant that the proceedings were pending before the first-instance court on the date of his last letter to the Court, i.e. on 20 August 2018.

On 3 July 2024 the applicant was invited, through his representative, to inform the Court by 31 July 2024 about the outcome of the new set of criminal proceedings which followed the quashing of 30 November 2017. The applicant's attention was also drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. No reply followed.

## THE LAW

According to the Court's constant case-law, the reopening of proceedings by itself may not automatically be regarded as sufficient redress capable of depriving the applicant of his victim status. To ascertain whether or not the applicant retained his victim status the Court will consider the proceedings as a whole, including the proceedings which followed the reopening (see *Sakhnovskiy v. Russia* [GC], no. 21272/03, § 83, 2 November 2010).

It is to be recalled that whenever an applicant omits, contrary to Rule 44C § 1 of the Rules of Court, to divulge relevant information of his or her own motion, depending on the particular circumstances of the case, the Court may draw such inferences as it deems appropriate, including striking the application out under either of the three sub-paragraphs of Article 37 § 1 of the Convention. The Court enjoys a wide discretion in identifying grounds capable of being relied upon in striking out an application on this basis, it being understood, however, that such grounds must relate to the particular circumstances of each case (see *Eraslan v. Türkiye* (dec.), no. 45768/12, §§ 18-19, 13 September 2022).

In the present case, the applicant failed to inform the Court about the outcome of the proceeding which followed the reopening of 30 November 2017. Thus, the Court is led to conclude that the appropriate inference to be drawn from Rule 44C § 1 *in fine* is that it is no longer justified to continue the examination of the present application (see, for similar conclusions, *Eraslan*, cited above, §§ 22-23).

Moreover, in the light of the above considerations, and in particular given the clear and extensive case-law on the right to examine witnesses under Article 6 §§ 1 and 3 (d) of the Convention, the Court finds 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*).

Accordingly, the application should be struck out of the list under Article 37 § 1 (c) of the Convention.

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 16 January 2025.

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| Viktoriya Maradudina<br>Acting Deputy Registrar | Diana Kovatcheva<br>President |