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

THIRD SECTION

DECISION

Application no. 72453/11
Vladimir Viktorovich ZOLOTAREV
against Russia

The European Court of Human Rights (Third Section), sitting on 20 January 2022 as a Committee composed of:

Peeter Roosma, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 12 November 2011,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases, and the applicant's reply to this declaration,

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 the alleged ill-treatment in police custody and inadequate conditions of pre-trial detention were communicated to the Russian Government ("the Government").

The Government submitted a declaration with a view to resolving the issues raised. They further requested the Court to strike out the application.

The Government acknowledged that there has been a violation of Article 3 of the Convention in its material and procedural aspects. They offered to pay the applicant the amount detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be converted into Russian roubles at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-

mentioned three-month period, the Government undertook to pay simple interest on it, from the 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.

The payment will constitute the final resolution of the case.

The applicant informed the Court that he agreed to the terms of the declaration.

THE LAW

A. Complaint under Article 3 of the Convention about the ill-treatment and lack of an effective investigation

The Court finds that, following the applicant's express agreement to the terms of the declaration made by the Government, this part of the application should be treated as a friendly settlement between the parties.

It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and the Protocols thereto and finds no reasons to justify the continued examination of the application in the part covered by the declaration of the Government.

In view of the above, it is appropriate to strike this part of the application out of the list.

B. Remaining complaints

The applicant also raised the complaint under Article 3 of the Convention in respect of conditions of his detention in remand prison no. 36/3 in the Voronezh Region between 11 June 2008 to 23 April 2014. The Court notes that it adopted a decision in the case of *Shmelev and Others v. Russia* ((dec.), nos. 41743/17 and 16 others, §§ 77 and 131, 17 March 2020), finding that the new compensatory remedy envisaged by the Russian Compensation Act was an effective remedy, in particular, for all cases of past pre-trial detention allegedly in breach of domestic provisions.

It therefore follows that this part of the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention for the failure to exhaust domestic remedies.

For these reasons, the Court, unanimously,

Decides to strike the part of the application about the alleged ill-treatment and absence of an effective investigation into the applicant's allegations of ill-treatment out of its list of cases in accordance with Article 39 of the Convention;

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 10 February 2022.

Viktoriya Maradudina Acting Deputy Registrar	Peeter Roosma President

APPENDIX

Application raising complaints under Article 3 of the Convention (police ill-treatment)

Application no. Date of introduction	Applicant's name Year of birth	Date of receipt of Government's declaration	Date of receipt of applicant's acceptance	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros)[1]
72453/11 12/11/2011	**Vladimir Viktorovich ZOLOTAREV** 1984	31/10/2018	17/11/2021	20,000

[1] Plus any tax that may be chargeable to the applicant.