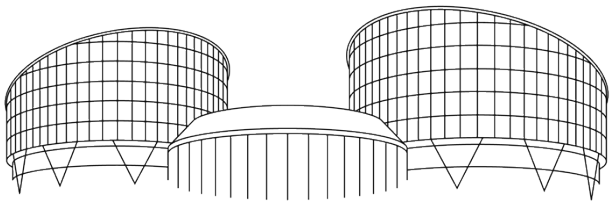

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 13472/04
Mikhail Vladimirovich SUKHOMLINOV
against Russia

The European Court of Human Rights (First Section), sitting on 5 June 2012 as a Chamber composed of:

Nina Vajić, *President,*
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having regard to the above application lodged on 6 March 2004,

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 Mikhail Vladimirovich Sukhomlinov, is a Russian national, who was born in 1976 and lived, prior to his arrest, in the Ryazan Region. He died on 27 July 2007. He was represented before the Court by Ms A. Stavitskaya, a lawyer practising in Moscow.

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

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

4. On 24 March 1997 the applicant was arrested on suspicion of robbery.

5. From April 1997 to October 2003 the applicant was detained in remand prisons nos. IZ-77/1, IZ-77/3 and IZ-77/5 in Moscow. During his trial he was, on numerous occasions, transported from the prisons to the courthouse and back, allowing him to participate in the proceedings.

6. On 18 July 2001 the City Court convicted the applicant, along with seventeen other persons, of banditism, robbery and attempted murder and sentenced him to thirteen years' imprisonment.

7. On 10 September 2003 the Supreme Court of the Russian Federation upheld the judgment on appeal.

COMPLAINTS

8. The applicant complained under Article 3 of the Convention about conditions of his pre-trial detention and transport to and from the courthouse. He further complained under Article 5 § 3 of the Convention about the length of his pre-trial detention and under Article 6 of the Convention about the length of the criminal proceedings against him.

PROCEEDINGS BEFORE THE COURT

9. On 27 July 2007 the applicant died. According to the applicant's representative, at the time her contact with the applicant had long been lost and she had not been aware that he had deceased.

10. On 4 September 2008 the President of the Chamber to which the case had been allocated decided to give notice of the application to the Government of Russia. Both parties were invited to submit written observations on the admissibility and merits of the case.

11. On 20 March 2009 the applicant's representative submitted her observations in response to the Government's submissions and the claims for just satisfaction. As she explained later, she did so in the absence of any contact with the applicant or his family knowing that it was generally difficult for the prisoners to maintain contact with their lawyers and in compliance with the applicant's earlier instructions to continue to represent him even if there was no contact with him.

12. On an unspecified date the applicant's half-brother Mr Abramov learnt of the applicant's death. On 24 March 2009 he obtained the death certificate. On 27 March 2009 he informed the applicant's representative of the applicant's death and expressed an interest in pursuing the latter's

application before the Court. The relevant documents reached the Court on 22 April 2009.

THE LAW

13. The Government argued that the present application was closely linked to the person of the deceased applicant and its further examination was not justified.

14. Mr Abramov asked the Court to recognise him as the applicant's successor in view of their kinship.

15. The Court reiterates that in a number of cases in which an applicant died in the course of the proceedings it has taken into account the statements of the applicant's heirs or of close family members expressing the wish to pursue the proceedings before the Court. It has done so most frequently in cases which primarily involved pecuniary, and, for this reason, transferable claims. However, the question whether such claims are transferable to the persons seeking to pursue an application is not the exclusive criterion. In fact, human rights cases before the Court generally also have a moral dimension and persons near to an applicant may have a legitimate interest in seeing to it that justice is done even after the applicant's death (see, among other authorities, *Horváthová v. Slovakia*, no. 74456/01, § 26, 17 May 2005).

16. In the present case the Court observes that the applicant's representative pleaded the case and submitted the just satisfaction claims on the applicant's behalf in the absence of any contact with him. She did not indicate to the Court whether she had tried to contact him or his relatives at all upon receipt of the Court's letter informing her that the Government had been given notice of the applicant's case. For reasons unknown, Mr Abramov got in touch with the applicant's representative long after the applicant's death.

17. In view of such developments in the case, the Court does not discern any evidence to suggest the existence of close ties between the applicant and Mr Abramov. In this respect the Court notes that Mr Abramov does not appear to have been even aware of the applicant's death in July 2007. He obtained the applicant's death certificate only on 24 March 2009, that is almost two years after the applicant died. At the same time he informed the applicant's representative and subsequently the Court thereof, without providing, however, any explanation as to such a belated notification. Nor did Mr Abramov claim that he was the applicant's heir or that he was personally affected by the alleged violations.

18. In such circumstances, the Court is not persuaded that Mr Abramov's intention to pursue his deceased half-brother's application

before the Court has any moral dimension. It considers that Mr Abramov cannot claim a legitimate interest justifying the continued examination of the application.

19. Furthermore, the Court does not see any question of general interest which would justify the continued examination of the complaint (see, by contrast, *Karner v. Austria*, no. 40016/98, §§ 24-28, ECHR 2003-IX).

20. Having regard to the above, the Court considers that it is no longer justified to continue the examination of the application and concludes pursuant to Articles 37 § 1 (c) of the Convention that the application should be struck out of its list of cases.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Søren Nielsen Registrar	Nina Vajić President