



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

FIRST SECTION

DECISION

Application no. 36611/05
Konstantin Igorevich PORTENKOV
against Russia

The European Court of Human Rights (First Section), sitting on 12 June 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Elisabeth Steiner,

Khanlar Hajiyeu, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 24 August 2005,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Konstantin Igorevich Portenkov, is a Russian national, who was born in 1979 and lives in Biysk, Altay Region.

The Russian Government (“the Government”) are represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

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

On 28 March 2003 the applicant was arrested on suspicion of having committed a crime. A police officer brought him to the Pristanskoye police station where he was allegedly handcuffed to a radiator. After the applicant refused to confess, he was allegedly beaten up by the police officers. Subsequently he was placed on remand by a court order, however his appeal was not considered for unidentified reasons.

By a decision of 27 December 2003 the authorities refused to open criminal proceedings on account of the applicant's ill-treatment in police custody.

The criminal proceedings against the applicant were discontinued by the investigation authorities on 1 February 2004 for lack of *corpus delicti*. The applicant sued the State for compensation for pecuniary and non-pecuniary damage.

By a judgment of 30 June 2004 the Tavricheskiy District Court of the Omsk Region awarded the applicant 50,000 Russian roubles (RUB) for non-pecuniary damage arising out of poor conditions of detention at the remand centre.

By a judgment of 20 March 2006 the same court awarded the applicant RUR 21,000 for pecuniary damage. That award was paid to the applicant on 10 May 2007.

On 22 December 2011 the Omsk Regional Court examined the applicant's claim for compensation for delay in the enforcement of the judgment of 20 March 2006, found that the delay was unreasonable and awarded him RUB 72,000 (approximately 1,800 euros (EUR)). That judgment became final and was enforced on 27 March 2012.

In a letter received by the Court on 29 March 2012 the applicant stated that he did not intend to pursue his application in the part concerning delayed enforcement of the judgment of 20 March 2006 due to the obtained compensation for non-pecuniary damage. At the same time, he insisted that the judgment of 30 June 2004 had also been enforced with a delay of one year and five months and requested the Court to consider that complaint.

COMPLAINTS

Without referring to any particular provision of the Convention, the applicant complained of delayed enforcement of the judgment of 20 March 2006.

He also complained under Article 3 of the Convention of ill-treatment in police custody, under Article 5 of unlawful detention, under Article 2 of Protocol No. 7 about the courts' alleged failure to examine his appeal of the remand order, under Article 6 of lack of a fair trial and under Article 13 of lack of effective remedies. He further complained about the amount awarded to him for non-pecuniary damage by the judgment of 30 June 2004.

THE LAW

1. The Court takes note of the applicant's statement concerning his desire to no longer pursue his application in the part concerning delayed enforcement of the judgment of 20 March 2006 due to the obtained compensation for non-pecuniary damage. 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 case. Therefore, it finds it appropriate to strike this part of the complaint out of the list of cases in accordance with Article 37 § 1 (a) of the Convention.

As to the complaint of delayed enforcement of the judgment of 30 June 2004, the Court observes that it was first raised by the applicant in his letter received on 29 March 2012 and therefore falls out of scope of the Court's consideration in the present case. In any event, this complaint is lodged out of time.

2. As to the other grievances raised by the applicant, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that the application in this part is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and Article 4 of the Convention.

For these reasons, the Court unanimously

Decides to strike the application in the part concerning the complaint of delayed enforcement of the judgment of 20 March 2006 out of its list of cases;

Declares the remainder of the application inadmissible.

André Wampach
Deputy Registrar

Peer Lorenzen
President