



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

FIRST SECTION

DECISION

Application no. 16234/05
Aleksandr Anatolyevich ZVEREV
against Russia

The European Court of Human Rights (First Section), sitting on 3 July 2012 as a Chamber composed of:

Nina Vajić, *President*,

Anatoly Kovler,

Peer Lorenzen,

Elisabeth Steiner,

Khanlar Hajiyev,

Mirjana Lazarova Trajkovska,

Julia Laffranque, *judges*,

and Søren Nielsen, *Section Registrar*,

Having regard to the above application lodged on 22 June 2005,

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 Aleksandr Anatolyevich Zverev, is a Russian national, who was born in 1956 and lived until his arrest in Moscow. The Russian Government (“the Government”) are represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

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

3. In 2001 the criminal proceedings were initiated against the applicant on suspicion of aggravated kidnapping and aggravated accessory to murder. On 22 May 2001 he was remanded in custody.

4. On 9 April 2004 the Moscow City Court gave judgment of conviction. The applicant was found guilty of aggravated kidnapping and aggravated accessory to murder and sentenced to eighteen years' imprisonment.

5. The applicant and his defence lawyer lodged an appeal. On 13 October 2004 the Supreme Court of the Russian Federation upheld the conviction and the sentence in full.

COMPLAINTS

6. The applicant complained under Article 6 § 1 of the Convention about the length of the criminal proceedings against him. Further, the applicant submitted a number of other complaints under Articles 3, 5, 6, 12, 13 and 14.

THE LAW

7. The applicant contended that the length of the criminal proceedings against him was in violation of the "reasonable time" requirement of Article 6 § 1 of the Convention, which in so far as relevant provides:

"In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

8. On 30 April 2010 the Court communicated to the respondent Government in a group of similar cases the complaint relating to the failure of the State to ensure the determination of the criminal charge within a "reasonable time".

9. In their submissions the Government argued that the complaint was manifestly ill-founded, and, thus, inadmissible within the meaning of Article 35 of the Convention. The applicant disagreed with the Government's contention and insisted on his claims.

10. The Court first must determine whether the applicant has complied with Article 35 of the Convention, and specifically with the six months time-limit established by Article 35 § 1 of the Convention.

11. The six months rule, while technical in nature, serves an important role in the Convention system establishing the temporal limit after which the European supervision of a complaint is no longer possible. The fundamental purpose of this rule is to ensure legal certainty, avoid stale complaints, and provide for examination of the Convention issues within a

reasonable time (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, §§ 39-40, 29 June 2012; *P.M. v. the United Kingdom* (dec.), no. 6638/03, 24 August 2004; and *Ipek v. Turkey* (dec.), no. 39706/98, 17 November 2000).

12. The decisive factor for application of the six months rule is the date of introduction of an application, which, according to the well-established practice, is generally considered to be the date of the first communication from the applicant setting out, even summarily, the subject matter of the application (see *Kemevuako v. the Netherlands* (dec.), no. 65938/09, § 17, 1 June 2010 with reference to Rule 47 § 5 of the Rules of Court).

13. As regards the definition of the subject matter of the application, the case-law of the Court is clear that it is the complaint characterised not merely by the legal grounds or arguments relied on, but also by the facts alleged in it (see *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, § 54, 17 September 2009). The mere mentioning of an Article of the Convention may not be regarded as a complaint and is not sufficient to constitute the introduction of all subsequent complaints made under that provision where no indication has been given of the factual basis of the complaint and the nature of the alleged violation (see *mutatis mutandis Adam and Others v. Germany* (dec.), no. 290/03, 1 September 2005, and *Allan v. the United Kingdom* (dec.), no. 48539/99, 28 August 2001).

14. Consequently, for the purposes of the six months rule an application is considered submitted for European supervision if it satisfies two criteria: 1) a temporal criterion setting the final calendar date when a communication may be sent to the Court; and 2) a substantive criterion obliging the applicant to indicate the relevant facts and the nature of an alleged violation.

15. Turning to the present case, the Court notes that on 30 March 2005 the applicant submitted his first letter to the Court alleging in general terms that he is innocent, that the criminal proceedings against him were arbitrary, and that he is a victim of “flagrant violations of Articles 2, 3, 4, 5, 6, 12, and 13 of the Convention”. He requested the Court to send him an application form in order to submit his complaints. On 22 June 2005 the applicant submitted his application form to the Court alleging various violations of the Convention rights, including the right to a determination of the criminal charge against him within a reasonable time.

16. Having regard to this the Court must determine the date on which the applicant submitted his complaints indicating the relevant facts and the nature of the alleged violation, and whether that date fell within the six months time-limit prescribed by Article 35 § 1 of the Convention.

17. The Court is aware that in the present case the Government did not raise in their observations any objection to the application on the basis of the six months rule established by Article 35 § 1 of the Convention. In this respect the Court is mindful that it may not set aside application of the six months rule (see *Sabri Güneş v. Turkey* [GC], cited above, and *Belaousof and Others v. Greece*, no. 66296/01, § 38, 27 May 2004) and neither may it

be waived by the Contracting States on their own authority (see *K. v. Ireland*, no. 10416/83, Commission decision of 17 May 1984, Decisions and Reports 38, p. 160).

18. The applicant's letter of 30 March 2005 only contained general statements about his innocence, arbitrariness of the criminal proceedings, and an allegation of being a victim of unspecified "flagrant violations of Articles 2, 3, 4, 5, 6, 12, and 13 of the Convention". These statements did not include any indication of the relevant facts and the nature of an alleged violation and, therefore, they did not constitute a complaint admissible within the meaning of Articles 34 and 35 of the Convention.

19. Conversely, the application form submitted by the applicant to the Court on 22 June 2005 described the nature of the alleged violation and the relevant facts, including the complaint about failure of the State to comply with "reasonable time" requirement in the proceedings against him.

20. In the light of the Convention provisions and the case-law mentioned above the Court considers, accordingly, that the date of introduction for the complaint regarding the length of the criminal proceedings against the applicant is 22 June 2005. However, the final judgment in the applicant's case on the domestic level was given by the Supreme Court of the Russian Federation on 13 October 2004, which is more than six months before the date of introduction.

21. It follows that the complaint regarding the length of criminal proceedings against the applicant was submitted outside of the six months time-limit and must be rejected in accordance with Article 35 § 1 of the Convention.

22. The applicant also submitted a number of other complaints alleging violations of his rights under Articles 3, 5, 6, 12, 13, and 14. However, 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 are inadmissible for the reasons mentioned above and must be rejected in accordance with Article 35 § 1 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Søren Nielsen
Registrar

Nina Vajić
President