



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

FIRST SECTION

DECISION

Application no. 23666/06
Sergey Aleksandrovich IVASHCHUK
against Russia

The European Court of Human Rights (First Section), sitting on 18 September 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Elisabeth Steiner,

Khanlar Hajiyev, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 18 April 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Sergey Aleksandrovich Ivashchuk, is a Russian national who was born in 1973 and lives in the town of Tula. At present he is serving a sentence of imprisonment in penitentiary establishment FGU IK-5 of the Tula Region.

The respondent Government were represented by Mr G. Matyushkin, 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 26 April 2001 at around 9.30 pm the applicant was arrested by the officers of the department in charge of fighting organised crime and a special task-force team of the Tula Regional Department of the Interior. The

applicant was then brought to the police station and for about five hours was ill-treated and pressured to force out a confession.

The applicant apparently admitted his involvement in a recent robbery episode during an interview which took place in the night between 26 and 27 April 2001 in the building of the Zarechenskiy District Department of the Interior of Tula.

By first instance judgment dated 18 August 2005 the Zarechenskiy District Court of the town of Tula examined the applicant's case and sentenced him to 7 years and 6 months of imprisonment. The court did not rely or otherwise use the applicant's alleged confession to convict him.

On 2 November 2005 the conviction has been upheld on appeal by the Tula Regional Court. Both decisions were later confirmed by way of supervisory review by the Supreme Court on 23 May 2006.

In response to the applicant's complaints, on 27 June 2001 the Zarechenskiy District Prosecutor's office refused to institute criminal proceedings.

This decision was quashed by the Regional Prosecutor's office on 20 August 2001

On 5 September 2001 the District Prosecutor's office again refused to institute criminal proceedings in this connection and some time later, on 7 October 2003, it quashed the decision as incomplete and superficial.

By decision of 13 October 2003 the applicant's request was again refused. The decision was quashed on 17 November 2003 by the same body that had adopted it.

A few days later, on 22 November 2003 the prosecutor's office again refused the applicant's request. On 3 August 2004 the prosecutor's office quashed its own decision and resumed the proceedings.

By letter of 9 August 2004 the prosecutor's office informed the applicant that his request had been refused and joined a copy of the decision of the same date in attachment.

From the contents of that decision it was clear that the applicant did make a confession at the initial stages of investigation.

It appears that some time thereafter the decision of 9 August 2004 was quashed.

On 9 September 2005 the prosecutor's office again refused the applicant's request and on 27 October 2005 it again quashed its own decision.

By decision of 31 October 2005 the prosecutor's office again refused the applicant's request. From the decision it transpired that the applicant's medical condition had been examined some time after his arrest and alleged ill-treatment and that the medical report had mentioned a scratch on his back and a palpable consolidation of tissue on the hairy part of his head. The decision did not contain any explanation for these injuries.

It does not appear that the applicant made any further attempts to bring proceedings against this decision.

COMPLAINTS

The applicant complained under Articles 3, 6 and 13 of the Convention that the criminal proceedings against him had been unfair, that the authorities ill-treated him to force out a confession and that they failed to investigate this ill-treatment.

THE LAW

On 25 March 2011 the President of the Court gave notice of the application to the respondent Government under Rule 54 § 2 (c) of the Rules of Court. The Government submitted their observations on the admissibility and merits of the case on 21 July 2011.

By letter of 25 July 2011 the applicant was requested to submit, by 26 September 2011, his comments on the Government's observations.

As the applicant had not replied, by letter of 8 December 2011, sent by registered mail, his attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court can strike a case out of its list where the circumstances lead to the conclusion that an applicant does not intend to pursue the application.

The Court notes that, despite the Court's letters of 25 July 2011 and 8 December 2011, the applicant has not submitted his observations in reply to those of the Government. Nor has he made any other submissions to the Court.

Against this background, the Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, 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.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

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

André Wampach
Deputy Registrar

Peer Lorenzen
President