



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

FIRST SECTION

DECISION

Applications nos. 56167/08 and 58846/09
Konstantin Mikhaylovich PEKALIN against Russia
and Sergey Vladimirovich DUDENKO against Russia

The European Court of Human Rights (First Section), sitting on 16 October 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Elisabeth Steiner,

Julia Laffranque, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above applications lodged on 20 September 2008 and 23 December 2009 respectively,

Having regard to the declarations submitted by the Government and the applicants' acceptance of their terms,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

A list of the applicants and their representatives is set out in the appendix.

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

The applicants complained under Article 3 of the Convention about the conditions of their detention in Russian penitentiary facilities.

By their letter dated 13 April 2012, the Government informed the Court that they proposed to make a declaration with a view to resolving the issue raised by the applications. They acknowledged that the applicants had been

“detained in the conditions which did not comply with the requirements of Article 3 of the Convention” and stated their readiness to pay the following amounts to the applicants as just satisfaction: 4,000 euros (EUR) to Mr Pekalin and EUR 4,000 to Mr Dudenko. The payment was to cover any pecuniary and non-pecuniary damage, together with any costs and expenses incurred, as well as any tax that may be chargeable. It would be effected within a period of three months from the date of notification of the decision taken by the Court. In the event of failure to pay within that period, the Government undertook to pay simple interest on it, from 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 would constitute the final resolution of the cases.

In their letters of 31 May and 20 July 2012, the applicants informed the Court that they agreed to the terms of the Government’s declarations.

THE LAW

Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and examine them in a single decision.

The Court considers that the applicants’ express agreement to the terms of the declarations made by the Government shall be considered as a friendly settlement between the parties (see *Cēsnieks v. Latvia* (dec.), no. 9278/06, § 34, 6 March 2012, and *Bakal and Others v. Turkey* (dec.), no. 8243/08, 5 June 2012).

The Court 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 its Protocols and finds no reasons to justify a continued examination of the applications.

In view of the above, it is appropriate to strike the cases out of the list in accordance with Article 39 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications,

Decides to strike the applications out of its list of cases in accordance with Article 39 of the Convention.

André Wampach
Deputy Registrar

Peer Lorenzen
President

APPENDIX

| No | Application No | Lodged on | Applicant Date of birth Place of residence | Represented by |
|-----------|-----------------------|------------------|---|---|
| 1. | 56167/08 | 20/09/2008 | Konstantin Mikhaylovich PEKALIN 16/11/1987 Rubtsovsk | Oksana Vladimirovna PREOBRAZHENSKAYA |
| 2. | 58846/09 | 23/12/2009 | Sergey Vladimirovich DUDENKO 03/11/1976 Abakan | |