



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

FIRST SECTION

DECISION

Application no. 45592/05
Vladimir Viktorovich DROGAL
against Russia

The European Court of Human Rights (First Section), sitting on 27 November 2012 as a Committee composed of:

Nina Vajić, *President*,
Khanlar Hajiyeu, *judges*
Julia Laffranque, *judges*

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 18 November 2005,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vladimir Viktorovich Drogal, is a Russian national, who was born in 1978 and lived until his arrest in 2004 in Krasnodar. The applicant was represented before the Court by his mother, Mrs Zinaida Nikolaevna Drogal.

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

On 28 September 2004 police officers arrested the applicant under suspicion of theft and brought him to the Police Department-1 of Krasnodar. According to the applicant, in the station the officers subjected him to severe ill-treatment and obtained his written confession. Later on he was questioned in the presence of a counsel. The applicant allegedly did not

have an opportunity to talk to the counsel in private before the questioning. He confessed to having committed theft during the questioning.

On 29 September 2004 the applicant's counsel lodged the motion with investigator to conduct a medical examination of the applicant. On 30 September 2004 the investigator ordered the examination.

On 30 September 2004 the expert reported the following injuries on the applicant: a fracture of the crown of one tooth, a bruise on the left thigh and a haemorrhage of the left ankle. The expert concluded that the applicant's injuries appeared from two to four days before the examination.

The applicant lodged a complaint with prosecution authorities seeking institution of criminal proceedings against the police officers.

On 22 November 2004 the investigator refused the applicant's request. On 20 January 2005 the deputy prosecutor quashed the investigator's decision and ordered an additional investigation into the applicant's complaints.

On 24 January 2005 the investigator refused to institute criminal proceedings again. The applicant's counsel challenged the investigator's refusal in court.

On 11 July 2005 the Oktyabrskiy District Court of Krasnodar quashed the investigator's decision of 24 January 2005 and sent the case back to the prosecutor's office. The court noted that the investigation into the applicant's allegations of ill-treatment was not thorough enough, the investigator failed to conduct certain actions and assess all relevant evidence. The outcome of the investigation is unknown.

In the meantime, on 4 May 2005 the Oktyabrskiy District Court of Krasnodar convicted the applicant of robbery and theft and sentenced him to four years' imprisonment. The court did not rely on the applicant's written confession, but took into account the confession made during the first questioning. The court did not consider the substance of the applicant's complaint about ill-treatment which he made during the trial.

On 6 July 2005 the Krasnodar Regional Court upheld the judgment of 4 May 2005.

The applicant complained under Articles 3, 5 and 6 of the Convention about the ill-treatment at the hands of the police, unlawful deprivation of liberty before the trial and about various procedural violations during criminal proceedings against him. The applicant also raised Articles 1, 13, 14 and 17 of the Convention.

The applicant's complaints concerning his ill-treatment, the effectiveness of the investigation into his allegations of ill-treatment as well as his confession in the absence of a counsel were communicated to the Government, who submitted their observations on the admissibility and merits. The observations were forwarded to the applicant, who was invited to submit his own observations. No reply was received to the Registry's letter.

By letter dated 2 November 2010, sent by registered post, the applicant was notified that the period allowed for submission of his observations had expired on 17 June 2010 and that no extension of time had been requested. The applicant's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. No response followed.

On 12 August 2011 the Court again sent to the applicant a strike-out warning by registered mail. No response has been received to date.

THE LAW

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

Nina Vajić
President