



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

FIRST SECTION

DECISION

Application no. 30907/06
Dmitriy Vladimirovich VOLKOV
against Russia

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

Elisabeth Steiner, *President*,

Anatoly Kovler,

Linos-Alexandre Sicilianos, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 28 June 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Dmitriy Vladimirovich Volkov, is a Russian national who was born in 1973 and lives in the town of Kemerovo, the Kemerovo Region. At present, he is detained in remand prison IZ-42/1 located in the Kemerovo 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 19 August 2005 the applicant was arrested in the streets of Kemerovo by the department in charge of fighting organised crime of the Kemerovo Regional Department of the Interior.

He was taken back to the headquarters of the department and then apparently beaten with a view to obtaining confession. Allegedly, the beatings continued for twelve hours. The applicant neither submitted a detailed description concerning the beatings episode at issue, nor joined a medical certificate to confirm the ill-treatment.

The applicant was then taken to an investigator of the Zavodskoy District Prosecutor's office of the town of Kemerovo. At that point, he was formally arrested and questioned.

On 21 August 2005 the applicant was charged with a number of crimes, including hostage taking and robberies.

Later on that date the applicant was taken to the Temporary Detention Ward of the town of Kemerovo and then transferred to remand prison IZ-42/1.

It appears that the criminal proceedings were pending until at least March 2007. The applicant was held in detention pending the proceedings.

According to the applicant, the conditions of detention in IZ-42/1 were appalling, the detention facility being overcrowded and extremely dirty.

His cell measured 35 square metres, had a non-partitioned WC area and held twenty four to thirty persons.

On an unspecified date the applicant's detention was authorised by a judge of the Zavodskoy District Court. He submitted that he had not been able to participate fully in the proceedings because the prosecution withdrew its file from him.

On 20 September 2005 the applicant applied for a change of measure of restraint.

On 23 September 2005 he received a reply from a first instance court with a refusal. It appears that the applicant was neither present, nor otherwise participated at the hearings.

On 14 October 2005 a hearing concerning the further extension of detention was held. The detention was extended until 17 December 2005.

This detention order was appealed against and later upheld by the Kemerovo Regional Court on 17 December 2005.

On 8 December 2005 a hearing was held concerning the further extension of detention, this until 17 January 2006.

The applicant unsuccessfully appealed against this detention order.

On 17 April 2006 the applicant's detention was extended until 17 July 2006.

The detention order was upheld on appeal on 1 June 2006.

On 13 June 2006 the detention was extended until 17 October 2006.

The detention order was appealed against and upheld by the Regional Court on 18 July 2006.

According to the applicant, a local television channel "STS Kuzbass" made a footage of the applicant in detention and then broadcast it on

25 August 2005 with comments suggesting the applicant's involvement in a recent hostage taking episode.

A similar information was disseminated by a local newspaper "Komsomolets Kuzbassa" in article "From revenge to prison in one step" in issue no. 34/153 dated 2 September 2005.

In a letter dated 2 September 2005 no. 37-V the applicant applied from remand prison IZ-42/1 to the police authorities, referring to the above episodes and alleging libel.

On 28 October 2005 the applicant received a refusal dated 18 October 2005.

He then appealed to the courts, but apparently received no response.

On 17 January 2006 he received yet another refusal and then again applied to the courts.

It appears that the applicant's request for prosecution of the media sources in question for libel was turned by a first instance judgment of the Federal Court of the Central District dated 1 March 2006, which was upheld on appeal by the Regional Court on 13 April 2006.

COMPLAINTS

Under Articles 3, 5 and 6 of the Convention, the applicant complained about the conditions of his detention in IZ-42/1, the length of his detention on remand and the inability to review his detention on a few occasions as well as the alleged unfairness of the criminal proceedings against him and the breach of his presumption of innocence.

THE LAW

On 31 May 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 28 September 2011.

By letter of 10 October 2011 the applicant was requested to submit, by 19 December 2011, his comments on the Government's observations.

As the applicant had not replied, by letter of 25 April 2012, 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 10 October 2011 and 25 April 2012, 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

Elisabeth Steiner
President