



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

FIRST SECTION

DECISION

Application no. 21648/05
Roman Viktorovich POLOSOV
against Russia

The European Court of Human Rights (First Section), sitting on 19 February 2013 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 30 May 2005,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Roman Viktorovich Polosov, is a Russian national who was born in 1978 and lived in Engels, the Saratov Region.

The respondent Government were represented by Mr G. Matyushkin, the 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 7 October 2003 the applicant was arrested on suspicion of having robbed Ms M. and taken to a police station in Saratov. According to the applicant, in the station the officers subjected him to severe ill-treatment and obtained his written confession.

On 21 October 2003 an X-ray examination of the applicant was conducted which showed that two of the applicant's ribs on the right side of the body were broken.

Relying on the above examination, the applicant asked the authorities to initiate criminal proceedings against the police officers who had ill-treated him, but to no avail.

On 4 March 2004 the District Court convicted the applicant of robbery of Ms M. and imposed a conditional sentence of two years and six months of imprisonment. The applicant did not appeal.

On 14 July 2004 the applicant was detained on suspicion of having committed a robbery of Ms A. and placed in remand prison IZ-64/1 of Saratov.

On 8 December 2004 the Frunzenskiy District Court of Saratov ("the District Court") convicted the applicant of robbery of Ms A. and sentenced him to three years and six months of imprisonment.

On 15 February 2005 the Saratov Regional Court ("the Regional Court") amended and upheld the judgment of 8 December 2004.

From 29 April 2005 until the applicant's release in August 2007 he had served his sentence in correctional colony IK-7 of the Saratov Region.

In the meantime, the applicant sued the Prosecutor's Office of the Saratov Region and the Ministry of Finance for non-pecuniary damages caused by the investigator's failure to send him a procedural decision.

On 19 August 2005 the District Court granted the applicant's claim in part and awarded him 500 Russian roubles (about 12 euro). The applicant was absent from the hearing whereas the representatives of the Prosecutor's Office and the Ministry of Finance were present and addressed the court.

On 5 October 2005 the Regional Court upheld the judgment in the applicant's absence.

The applicant complained under Articles 3 and 13 of the Convention about the ill-treatment at the hands of the police and the ineffective investigation into his ill-treatment complaint. He also complained under Article 3 about conditions of detention in the remand prison as well as in the correctional colony. He further complained under Article 3 that in July 2005 a colony officer had punched him after reading his letter to the Court. The applicant complained under Article 5 of the Convention about unlawful deprivation of liberty before the second trial. Under Articles 6 and 13 of the Convention as well as under Article 2 § 1 of Protocol no. 7 to the Convention the applicant complained about various procedural violations during criminal proceedings against him. Without reference to any Convention provision, the applicant complained that the administration of the remand prison had seized some correspondence addressed to the domestic authorities and to the Court. He also complained about the seizure of his correspondence by the correctional colony administration and censorship of one letter to the Court by the colony's officials in July 2005.

With regard to the civil proceedings for damages the applicant complained under Article 6 § 1 of the Convention that he was deprived of the right of access to a court and that the courts examined the case in his absence.

The applicant's complaints concerning his ill-treatment, the effectiveness of the investigation into his allegations of ill-treatment as well as conditions of detention in the remand prison were communicated to the Government, who submitted their observations on the admissibility and merits on 2 May 2011.

On 20 May 2011 the Court invited the applicant to submit his written observations in reply by 22 July 2011. No reply followed.

On 5 July 2011 the English version of the Government's observations was forwarded to the applicant. The time-limit for the submission of the applicant's observations remained unaffected.

As the applicant's observations on the admissibility and merits had not been received by 22 July 2011, on 17 October 2011 the Court sent a letter by registered mail to the applicant at his last known address (a remand prison in Saratov), advising him that the failure to submit the observations might result in the strike-out of the application. The letter was received by the prison administration on 7 November 2011.

In view of the fact that it was impossible to verify that the applicant had, in fact, received the Court's letter of 17 October 2011, on 26 November 2012 the Court asked the Government to submit factual information under Rule 54 § 2 (a) of the Rules of Court. In particular, they were asked to confirm that the Court's letters of 10 January, 20 May, 5 July and 17 October 2011 had been delivered to the applicant. The Government were also requested to produce copies of the applicant's signatures for these letters from the facility's correspondence log.

By a letter of 7 January 2013 the Government informed the Court that the applicant was released on 12 August 2010 and the Court's letters of 10 January, 20 May, 5 July and 17 October 2011 were forwarded by the prison administration to the applicant's home address in Engels Town (the Saratov Region). However, the last letter was returned by the post office of Engels Town to the prison since the applicant had not been residing at that address. The Government supported their assertion with a certificate confirming the applicant's release on 12 August 2010, copies of the facility's correspondence log showing the date and registration number of each letter received from the Court and forwarded to the applicant. They also submitted a certificate issued by the post office of Engels Town confirming that the delivery of the last letter was impossible due to the applicant's absence.

THE LAW

The Court reiterates that under Rule 47 § 6 of the Rules of Court applicants shall keep the Court informed of any change of address. The Court notes that, being released on 12 August 2010, the applicant failed to inform the Court about his new address until present. It further observes that all the Court's letters were forwarded to the applicant by the administration of the remand prison at his last known address.

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

Khanlar Hajiyev
President