



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

FIRST SECTION

DECISION

Application no. 58973/08
Sergey Vladimirovich KHARITONOV
against Russia

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

Khanlar Hajiyeu, *President*,

Erik Møse,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 6 November 2008,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Sergey Vladimirovich Kharitonov, is a Russian national, who was born in 1975 and lives in the Ivanovo region.

The Russian Government (“the 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 October 2006 police arrested the applicant on suspicion of extortion. On 28 October 2006 Oktyabrskiy District Court, Ivanovo, (“the District Court”) extended the applicant’s arrest for further 24 hours.

On 31 October 2006 the District Court granted the investigator’s request to place the applicant in pre-trial detention. The District Court found, in particular, that the applicant had been suspected of a particularly serious

offence, had a criminal history, was unemployed and had no means for living. It also noted that the applicant had applied violence to victims and might put pressure on them if released.

The domestic courts further extended the applicant's detention on 25 December 2006 and on 28 April, 23 August, 23 October and 20 December 2007 on the same grounds as before.

On 28 February 2008 the Ivanovo Regional Court ("the Regional Court") returned the case to the prosecutor to have factual inconsistencies and legal defects remedied. The court decided that there was no reason to vary the custodial measure.

On 20 March 2008 the Regional Court extended the applicant's detention until 21 May 2008 in order to give him the time to familiarise himself with the materials of the criminal case.

On 21 May 2008 the Regional Court held a preliminary hearing and set the examination of the case on 23 June 2008. By the same decision the Regional Court held that the applicant had to stay in detention. In taking that decision the Regional Court referred to the same grounds as before.

The applicant submitted that between 20 July and 5 December 2008 he had been put on numerous occasions into a punishment cell and was kept there in inhuman conditions.

Further extensions of the applicant's detention were ordered by the Regional Court on 6 November 2008 and on 6 February, 5 May and 6 August 2009.

On 18 September 2009 the jury found the applicant not guilty. On 27 November 2009 the Regional Court, on the basis of the jury's verdict, acquitted the applicant of all charges. It follows from the information provided on the official site of the Regional Court that on 8 December 2010 the Supreme Court of the Russian Federation upheld the judgment of 27 November 2009.

It also follows from the information provided on that site that by a final decision of 18 May 2011 the Regional Court granted the applicant's claim against the Ministry of Finance of the Russian Federation for compensation of non-pecuniary damage caused by unlawful criminal prosecution and awarded him 1,050,000 Russian roubles.

COMPLAINTS

1. The applicant complained under Article 3 of the Convention that between 20 July and 5 December 2008 he had been put on numerous occasions into a punishment cell and was kept there in inhuman conditions.

2. He complained under Article 5 that the decision of 28 October 2006 to extend his arrest had been unlawful, that his detention between

29 February and 20 March 2008 had been unlawful and that his pre-trial detention had been very long and had not been sufficiently justified.

3. He complained under Article 6 that the criminal proceedings against him were unreasonably long, that meetings with his counsel in remand prison had been tapped by the authorities and that because of his detention in a punishment cell he could not prepare for the court hearings of his criminal case.

THE LAW

By letter dated 11 July 2012 the Government's observations were sent to the applicant, who was requested to submit his observations together with any claims for just satisfaction in reply by 4 September 2012.

By letter dated 8 November 2012, sent by registered post, the applicant was notified that the period allowed for submission of his observations had expired on 4 September 2012 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. The applicant received this letter on 21 November 2012. However, no response has been received.

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