



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

FIRST SECTION

DECISION

Application no. 38094/09
Sabyrbay Bagibekovich ESENOV
against Russia

The European Court of Human Rights (First Section), sitting on 17 September 2013 as a Committee composed of:

Elisabeth Steiner, *President*,

Mirjana Lazarova Trajkovska,

Linos-Alexandre Sicilianos, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 26 March 2009,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Sabyrbay Bagibekovich Esenov, is a national of Uzbekistan, who was born in 1979 and serves his sentence of imprisonment in a correctional colony in the Tver 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 applicant, who had been sentenced to eight years of imprisonment on 15 January 2009 by the Koptevskiy District Court of Moscow following his conviction of a large-scale drug trafficking, complained, in particular, under Article 6 of the Convention about the lack of legal assistance on appeal and his absence from the appeal hearing in the criminal proceedings.

The applicant’s complaints were communicated to the Government, who submitted their observations on the admissibility and merits. The

Government informed the Court that the appeal judgment in the applicant's case had been quashed on 12 October 2012; that legal aid counsel had been assigned to assist the applicant in the new set of the appeal proceedings and that following the new appeal hearing the Moscow City Court upheld the applicant's conviction and sentence.

The Government's 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 11 February 2013, sent by registered post, the applicant was notified that the period allowed for submission of his observations had expired on 9 January 2013 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 28 May 2013 the Court asked the Government to provide factual information. In particular, the Government was requested to confirm that the applicant had received the Court's letters, including the one sent on 11 February 2013, and to provide evidence in support of their statements.

On 9 July 2013 the Government informed the Court that its letters to the applicant, including the letter of 11 February 2013, had been served on him either by the administration of the correctional colony where he had been detained following the conviction in 2009 or by the administration of a remand ward in Moscow where he had been kept while the new set of the appeal proceedings had been pending. The Government submitted a copy of an envelope to the Court's letter of 11 February 2013. The envelope bore a handwritten note and the applicant's signature showing that the letter had been served on him on 12 April 2013. They also produced extracts from the correspondence logs from the two detention facilities.

The Court forwarded the Government's letter of 9 July 2013 to the applicant. No response has been received.

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

Elisabeth Steiner
President