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

FIRST SECTION

DECISION

Application no. 14293/10
Sergey Nikolayevich ANDRIANOV
against Russia

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

Khanlar Hajiyev, President,
Julia Laffranque,
Dmitry Dedov, judges,
and André Wampach, Deputy Section Registrar,

Having regard to the above application lodged on 17 November 2009,

Having regard to the comments submitted by the respondent Government and the comments in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sergey Nikolayevich Andrianov, is a Russian national, who was born in 1979 and lives in Ozernyy.

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

3. The applicant was a defendant in criminal proceedings. From 17 December 2005 to 21 April 2006 he was held in a remand prison IZ-77/5 of Moscow. According to the applicant, the conditions of his detention were characterised by overcrowding and restricted access to natural light and air.

4. On 30 January 2009 the applicant brought a civil claim for compensation in connection with inadequate conditions of his detention in the remand prison. By final judgment of 7 July 2009, the Moscow City Court rejected Mr Andrianov's claim, finding that he did not prove the fault of State officials.

COMPLAINTS

5. The applicant complained under Article 3 of the Convention about the conditions of his detention in the remand prison.

6. The applicant also complained under Article 6 of the Convention about various irregularities in the civil proceedings.

THE LAW

7. The applicant's first complaint is related to the conditions of his detention in the remand prison. Having regard to the fact that the respective period of his detention had ended more than six months before his application was lodged with the Court, the Court must determine whether the applicant complied with the six-month requirement imposed by Article 35 of the Convention.

8. The Government submitted that, since the adoption of the *Kalashnikov* judgment (see *Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI), the Court had consistently maintained its position that there had been no effective remedy in the Russian legal system for the complaints relating to inadequate conditions of detention. That case-law was accessible to the applicant and he should have been aware of its existence. In those circumstances, he should have lodged his application within six months of the end of the situation he complained about, that is, the period of his detention in the remand prison.

9. The applicant replied that he had lodged his application within six months of the domestic courts' final decision on his compensation claims. Accordingly, it was not belated.

10. The Court reiterates that the six-month period normally runs from the final decision in the process of exhaustion of domestic remedies. Where it is clear from the outset however that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of (see *Artyomov v. Russia*, no. 14146/02, § 108, 27 May 2010, with further references).

11. The Court further recalls its constant position that given the present state of Russian law, a civil action for compensation for inadequate conditions of detention has not been considered an effective remedy (see, most recently, *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 113-118, 10 January 2012, with further references). The Court's case-law on the absence of an effective remedy for complaints concerning inadequate conditions of detention being sufficiently established, the applicant had at his disposal a period of six months following his departure from the remand prison, during which he should have ascertained the

conditions on the admissibility of an application to the Court and, if necessary, obtained appropriate legal advice. However, he did not submit his application within that time period.

12. The Court has recently examined a similar situation and reached the conclusion that the complaint about the inadequate conditions of detention should have been introduced within six months of the day following the applicant's transfer out of the detention facility (see *Norkin v. Russia* (dec.), no. 21056/11, 5 February 2013). There are no arguments or factual information in the present case that would warrant a departure from the Court's findings in that decision. The applicant should have been aware of the ineffectiveness of the judicial avenue he had made use of, before he lodged his application with the Court. The final disposal of his claims for compensation cannot be relied upon as starting a fresh time-limit for his complaints.

13. It follows that his complaints about allegedly inadequate conditions of detention are inadmissible for non-compliance with the six-month rule set out in Article 35 § 1 of the Convention, and must be rejected pursuant to Article 35 § 4.

14. The applicant also raised additional complaints about alleged deficiencies in the civil proceedings, to which he was a party. The Court has given careful consideration to these grievances in the light of all the material in its possession and considers that, in so far as the matters complained of are within its competence, they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President