



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

FIRST SECTION

DECISION

Application no. 31970/09
Aleksey Mikhaylovich TUVYKIN
against Russia

The European Court of Human Rights (First Section), sitting on 27 May 2014 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President*,

Paulo Pinto de Albuquerque,

Linos-Alexandre Sicilianos, *judges*,

and André Wampach, *Deputy Section Registrar*,

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

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

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Aleksey Mikhaylovich Tuvykin, is a Russian national who was born in 1983 and lives in the Nizhniy Novgorod Region.

2. The facts of the case, as submitted by the applicant and undisputed by the Government, may be summarised as follows.

A. Detention in the IVS Sosnovskiy District in 2008 (application form lodged on 30 July 2009)

3. During several periods between 21 January and 15 April 2008 the applicant was held in the IVS Sosnovskiy District in the Nizhniy Novgorod Region. The applicant brought a civil claim for compensation in connection with inadequate conditions of his detention. By final judgment of 30 June 2009, the Nizhniy Novgorod Regional Court granted his claim and awarded him 60,000 Russian roubles (RUB).

B. Detention in the IVS Pavlovo in 2009 (application form lodged on 11 August 2010)

4. During several periods between 17 March and 2 April 2009 the applicant was held in the IVS Pavlovo in the Nizhniy Novgorod Region. The applicant brought a civil claim for compensation in connection with inadequate conditions of his detention. By final judgment of 6 July 2010, the Nizhniy Novgorod Regional Court granted his claim and awarded him RUB 1,000.

C. Detention in the IVS Sosnovskiy District in 2005 (application form lodged on 16 November 2010)

5. During several periods between 29 May and 2 August 2005 the applicant was held in the IVS Sosnovskiy District in the Nizhniy Novgorod Region. The applicant brought a civil claim for compensation in connection with inadequate conditions of his detention. By final judgment of 27 July 2010, the Nizhniy Novgorod Regional Court granted his claim and awarded him RUB 5,000.

D. Detention in the IVS Krasnye Baki in 2010 (application form lodged on 29 August 2011)

6. During several periods between 28 June and 29 July 2010 the applicant was held in the IVS Krasnye Baki in the Nizhniy Novgorod Region. The applicant brought a civil claim for compensation in connection with inadequate conditions of his detention. By final judgment of 17 May 2011, the Nizhniy Novgorod Regional Court granted his claim and awarded him RUB 2,000.

COMPLAINTS

7. The applicant complained under Articles 3, 6 and 13 of the Convention about inhuman and degrading conditions of his detention and insufficient awards by the domestic courts.

THE LAW

8. The Government submitted that the applicant's complaints were belated because in each case more than six months had passed between the last day of his detention and the lodging of the application form and because the civil claim was not an effective remedy interrupting the running of the six-month time-limit.

9. The applicant maintained his complaints.

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, in the present state of Russian law, a civil action for compensation for inadequate conditions of detention is not an effective remedy (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 113-118, 10 January 2012). The Court's case-law on the absence of an effective remedy for complaints concerning inadequate conditions of detention having been sufficiently established at the material time, the applicant had at his disposal a period of six months after the last day of his stay in the police custody, 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 any of his applications 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 applications with the Court. The final disposal of his claims for compensation cannot be relied upon as starting a fresh time-limit for the complaints.

13. It follows that the applicant's 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 Court also examined the applicant's complaints under Articles 6 and 13 of the Convention. Having regard to all the material in its possession, and in so far as these complaints fall within the Court's competence, it finds that 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 as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President